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ILLINOIS

REGISTER

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RULES
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AGENCIES



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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

Issue 16-April	14, 2000:	Data Through March	31, 2000
Issue 29-July	14, 2000:	Data Through June	30, 2000
Issue 42-October	13, 2000:	Data Through September	30, 2000
Issue 3-January	19, 2001:	Data Through December	31, 2000 (Annual)

REGISTER PUBLICATION SCHEDULE 2001

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 26, 2000	January 5, 2001	Issue 28	July 2	July 13
Issue 2	January 2, 2001*	January 12	Issue 29	July 9	July 20
Issue 3	January 8	January 19	Issue 30	July 16	July 27
Issue 4	January 16*	January 26	Issue 31	July 23	August 3
Issue 5	January 22	February 2	Issue 32	July 30	August 10
Issue 6	January 29	February 9	Issue 33	August 6	August 17
Issue 7	February 5	February 16	Issue 34	August 13	August 24
Issue 8	February 13*	February 23	Issue 35	August 20	August 31
Issue 9	February 20*	March 2	Issue 36	August 27	September 7
Issue 10	February 26	March 9	Issue 37	September 4*	September 14
Issue 11	March 5	March 16	Issue 38	September 10	September 21
Issue 12	March 12	March 23	Issue 39	September 17	September 28
Issue 13	March 19	March 30	Issue 40	September 24	October 5
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Issue 18	April 23	May 4	Issue 45	October 29	November 9
Issue 19	April 30	May 11	Issue 46	November 5	November 16
Issue 20	May 7	May 18	Issue 47	November 13*	November 26**
Issue 21	May 14	May 25	Issue 48	November 19	November 30
Issue 22	May 21	June 1	Issue 49	November 26	December 7
Issue 23	May 29*	June 8	Issue 50	December 3	December 14
Issue 24	June 4	June 15	Issue 51	December 10	December 21
Issue 25	June 11	June 22	Issue 52	December 17	December 28
Issue 26	June 18	June 29	Issue 1	December 26 (Wed. Noon)	January 4, 2002
Issue 27	June 25	July 6			

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

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ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Heading of the Part: Fees and Taxes

2) Code Citation: 92 Ill. Adm. Code 1205

3) Section Numbers

Proposed Action:

- 1205.10 Amend
- 1205.100 Repeal
- 1205.110 Repeal
- 1205.115 Repeal
- 1205.210 Repeal
- 1205.220 Repeal
- 1205.300 Repeal

4) Statutory Authority: Implementing Sections 18c-1202 and 18c-1207 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202 and 18c-1207].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking sets forth the fees currently being charged to intrastate and interstate public carriers and repeals other fees which have either become obsolete, been eliminated or been consolidated as part of the household goods rules (92 Ill. Adm. Code 1457) or the relocation towing rules (92 Ill. Adm. Code 1710).

6) Will these proposed Rules replace emergency Rules currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed rulemaking neither creates nor expands any state mandate on units of local government, school districts, or community college districts.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the Illinois Register, with:

Kathy Campbell
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701
217/785-1018

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment will affect those intrastate carriers that are also small businesses as defined in the Illinois Administrative Procedure Act.

B) Reporting, bookkeeping or other procedures required for compliance:

None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for the rulemaking was not anticipated at the time.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
 CHAPTER III: ILLINOIS COMMERCE COMMISSION
 SUBCHAPTER a: COMMERCIAL TRANSPORTATION GENERALLY

PART 1205
 FEES AND TAXES

SUBPART A: FILING AND ANNUAL FEES

Section 1205.10 Filing and Annual Fees
 1205.20 Late-Filing Fees (Repealed)

SUBPART B: ANNUAL VEHICLE FEES

Section 1205.100 Intrastate Motor Carriers of Property (Repealed)
 1205.110 Interstate Motor Carriers of Property (Repealed)
 1205.115 Ordering Fees (Repealed)

SUBPART C: GROSS RECEIPTS TAXES

Section 1205.200 Gross Receipts Taxes for Motor Carriers of Passengers (Repealed)
 1205.210 Gross Receipts Taxes for Rail Carriers (Repealed)
 1205.220 Gross Receipts Taxes for Common Carrier Pipelines (Repealed)

SUBPART D: PAYMENT PROCEDURES

Section 1205.300 Payment of Fees (Repealed)

SUBPART E: TEMPORARY FILING AND VEHICLE FEES

Section 1205.400 Temporary Filing Fees, Annual Vehicle Fees and Ordering Fees (Repealed)

AUTHORITY: Implementing and authorized by Sections 18c-1202(9), 18c-1501, 18c-1502, and 18c-5102 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202(9), 18c-1501, 18c-1502 and 18c-5102].

SOURCE: Emergency rules adopted at 11 Ill. Reg. 1497, effective January 1, 1987, for a maximum of 150 days; adopted at 11 Ill. Reg. 9853, effective May 8, 1987; amended at 12 Ill. Reg. 15540, effective October 1, 1988; amended at 13 Ill. Reg. 11460, effective July 1, 1989; amended at 18 Ill. Reg. 11155, effective July 1, 1994; emergency amendment at 18 Ill. Reg. 16464, effective October 21, 1994, for a maximum of 150 days; emergency rule expired March 20,

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1994; amended at 19 Ill. Reg. 8198, effective June 8, 1995; amended at 21 Ill. Reg. 3831, effective March 13, 1997; amended at 25 Ill. Reg. _____, effective _____.

SUBPART A: FILING AND ANNUAL FEES

Section 1205.10 Filing and Annual Fees

Filing and application fees for other than household goods carriers and relocation towers shall be as follows:

- a) Application for Public Carrier Certificate \$50
- b) Petition for Certificate of Exemption \$50
- c) Application for non-relocation towing license \$50
- d) Equipment lease filing \$15
- e) Application for broker's license \$50

Section 1205.10 Filing and Annual Fees under a Public Carrier
 Certificate \$5
 Annual fee for each vehicle operated in interstate commerce
 under the Single State Registration Program or as an exempt
 interstate carrier \$7

Filing fees for proceedings under the Illinois Commercial Transportation Law

§ 625-EBSS-5/18c-1101-et-seq.; shall be as follows:

- Motor-carrier-of-property-license-application
 - 1) Application-for-new-license \$300
 - 2) Application-for-temporary-authority \$300
 - 3) Application---for---emergency---temporary authority \$300
- Other-application---for---new---license---fees \$600

- General-commodity-application---common---or contract \$900
- 2) Application-for-extended-license
 - 1) For-temporary-authority \$300
 - 2) For-emergency-temporary-authority \$300
 - 3) Other-application-for-extended-license \$600

- 3) Application-to-transfer-license
 - 1) Transfer-under-Section-18c-4306---of---the Illinois---Commercial---Transportation---Law \$300
 - 2) Application-to-transfer-license \$300
- 4) Application-to-reinstate-a-suspended-or-revoked license-or-vacated-order \$600

- 5) Application---for-new-or-extended-non-relecation towing-license \$600
- 6) Petition-to-restate-commodity---description \$25
- 7) Petition-for-certificate-of-exemption \$300
- 8) Petition-for-interpretation-of-authority \$250

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

e) Petition-to-amend-authority \$-75
f) Petition-for-name-change \$-75
g) Rate-filings
h) Application--for--authority--to--establish--a released-value-rate \$ 75
i) Special-permission-application \$ 75
j) Application-to-register-as-an-exempt-interstate motor-carrier-of-property-or-passenger \$ 25
k) Motor-carrier--of--property-equipment--lease firing \$ 25
l) tariff-maintenance-fees-payable-by-December--31 of-each-year \$ 30
m) Motor-carrier--of--property-proof-of-insurance coverage-filing \$ 25
n) Broker's-license-application \$600
o) Application-for-broker's-license \$300
p) Application-to-transfer-broker's-license \$-25
q) Intervention per-intervenor \$300
r) Application-for-temporary-Public-Carrier-Certificate (Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART B: ANNUAL VEHICLE FEES

Section 1205.100 Intrastate Motor Carriers of Property (Repealed) (Source: Repealed at 25 Ill. Reg. _____, effective _____)

a) The--annual--franchise--and--franchise--renewal--fee--for--each--vehicle operated-by-or-under-authority--of--an--intrastate--motor--carrier--of--property--authorized-to-transport-household-goods-is-\$25.00--whether--or not--the--vehicle--is--used--in--the--transport--of--household-goods. b) For--calendar--year--1995--and--subsequent--years--the--annual--fee--for--each vehicle--operated--by--an--intrastate--motor--carrier--of--property--other than--household--goods)7-is-\$6.00. (Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 1205.110 Interstate Motor Carriers of Property (Repealed) (Source: Repealed at 25 Ill. Reg. _____, effective _____)

The--annual--fee--for--each--vehicle--operated--by--or--under--authority--of--an--intrastate motor--carrier--is-\$7.00. (Source: Repealed at 25 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Each-order--for--the--vehicle--cab--cards--and--identifiers--(see--92--fill--Adm--Code 1302)--signifying--payment--of--the--fees--in--Sections--1205.100--and--1205.110--shall--be accompanied--by--a--\$10.00--fee--regardless--of--the--number--or--combination in--intrastate--or--interstate)--of--cab--cards--and--identifiers--requested: (Source: Repealed at 25 Ill. Reg. _____, effective _____)

SUBPART C: GROSS RECEIPTS TAXES

Section 1205.210 Gross Receipts Taxes for Rail Carriers (Repealed) The--annual--fee--the--tax--for--rail--carriers--shall--be--0--23%--of--the--carrier's--gross filings--in--intrastate--Revenues--for--each--calendar--year (fill--Rev--Stat--19077--eh--95--1727--par--10c--1502): (Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 1205.220 Gross Receipts Taxes for Common Carrier Pipelines (Repealed) The--level--of--gross--receipts--tax--for--common--carrier--pipelines--is--18--of--annual gross--receipts. (Source: Repealed at 25 Ill. Reg. _____, effective _____)

SUBPART D: PAYMENT PROCEDURES

Section 1205.300 Payment of Fees (Repealed) a) Filing--fees--shall--be--payable--at--the--time--and--place--the--document(s)--is tendered--for--filing. b) Filings--shall--not--be--deemed--to--have--taken--place--until--the--filing--fee has--been--properly--paid. c) Filing--and--copying--fees--shall--not--be--refundable--except--for: 1) Overpayments--and 2) Fees--for--filings--over--which--the--Commission--does--not--have jurisdiction. (Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 1205.115 Ordering Fees (Repealed) (Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 1205.115 Ordering Fees (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Sheltered Care Facilities Code2) Code Citation: 77 Ill. Adm. Code 3303) Section Numbers: 330.785Proposed Action:

New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]5) A Complete Description of the Subjects and Issues Involved: Part 330 establishes requirements for licensure of sheltered care facilities. A new Section 330.785 (Emergency Response System Notification) is being added. The new Section lists circumstances in which a facility will be required to call "911". The facility will also be required to comply with other reporting requirements in Part 330.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately 6 to 9 months after publication of the notice in the Illinois Register.

6) Will this rulemaking replace any emergency rulemaking currently in effect?

No

7) Does this rulemaking contain an automatic repeal date? No8) Does this rulemaking contain incorporations by reference? No9) Are there any other proposed rulemakings pending on this Part? No10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

Paul Thompson
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
email: rules@idph.state.il.us

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Paul Thompson at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:A) Types of small businesses, small municipalities and not for profit corporations affected: Sheltered care facilitiesB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary for compliance: None13) Regulatory Agenda on which this rulemaking was summarized: January 2001
The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

330.1320 Work Programs
 330.1330 Written Policies for Restorative Services
 330.1340 Volunteer Program

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 330.1520 Administration of Medication
 330.1530 Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

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SUBPART I: FOOD SERVICE

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 330.1910 Director of Food Services
 330.1920 Dietary Staff in Addition to Director of Food Services
 330.1930 Hygiene of Dietary Staff
 330.1940 Diet Orders
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 330.1970 Scheduling of Meals
 330.1980 Menus and Food Records
 330.1990 Food Preparation and Service
 330.2000 Food Handling Sanitation
 330.2010 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

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SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

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DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

330.2420 Equipment and Supplies
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 330.2830 Submission of a Program Narrative
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 330.3150 Housekeeping, Service, and Storage
 330.3160 Plumbing
 330.3170 Heating
 330.3180 Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section
 330.3310 Applicable Requirements (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

330.3320	Applicability of These Standards
330.3330	Fire Protection
330.3340	Fire Department Service and Water Supply
330.3350	General Building Requirements
330.3360	Exit Facilities and Subdivision of Floor Areas
330.3370	Stairways, Vertical Openings, and Doorways
330.3380	Corridors
330.3390	Exit Lights and Directional Signs
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	330.3680	Special Care Room
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	330.3710	Housekeeping and Service Rooms and Storage Space
	330.3720	Plumbing and Heating
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	330.4230	Restraints
	330.4240	Abuse and Neglect
	330.4250	Communication and Visitation
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	330.4280	Contract With Facility
	330.4290	Private Right of Action
	330.4300	Transfer or Discharge
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	330.4330	Facility Implementation

SUBPART R: DAY CARE PROGRAMS

Section	330.4510	Day Care In Long-Term Care Facilities
	APPENDIX A	Interpretation, Components, and Illustrative Services for Sheltered Care Facilities (Repealed)
	APPENDIX B	Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
	APPENDIX C	Forms for Day Care in Long-Term Care Facilities
	APPENDIX D	Criteria for Activity Directors Who Need Only Minimal Consultation
	APPENDIX E	Guidelines for the Use of Various Drugs
	TABLE A	Heat Index Table/Apparent Temperature

AUTHORITY:	Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].
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SOURCE:	Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 16870, effective December 24, 1987; amended at 12 Ill. Reg. 18939, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective
SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES	

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	330.3920	Fire Department Service and Water Supply
	330.3930	Occupancy and Fire Areas
	330.3940	Exit Facilities and Subdivision of Floor Areas
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	330.3990	Fire Extinguishers, Electric Wiring, and Miscellaneous Use of Fire Extinguishers, Evacuation Plan, and Fire Drills
	330.4000	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1, 2001; amended at 25 Ill. Reg. _____, effective _____.

SUBPART C: POLICIES

Section 330.785 Emergency Response System Notification

a) For the purpose of this Section, "911" shall mean an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services, including police, fire, medical ambulance and rescue. The facility shall call 911 in the following situations:

- 1) Emergencies;
- 2) Physical abuse that cannot be alleviated by staff intervention;
- 3) Sexual abuse (For the purpose of this Section, sexual abuse means sexual penetration, intentional sexual touching or fondling, or sexual exploitation (i.e., use of an individual for another person's sexual gratification, arousal, advantage, or profit).);
- 4) When a crime has been committed in a facility by a person other than a resident; or
- 5) When a resident death has occurred other than by disease processes.

c) The facility shall also comply with other reporting requirements of this Part.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: _____ Added at 25 Ill. Reg. _____)

effective _____,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Retailers' Occupation Tax2) Code Citation: 86 Ill. Adm. Code 1303) Section Numbers: Proposed Action:
130.351
Amendment4) Statutory Authority: 35 ILCS 120

5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the regulations pertaining to Aggregate Manufacturing by providing that roof bolt supports and side rib bolt supports that prevent mine collapse are equipment exempt from tax.

6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
130.330	Amendment	05/26/00, 24 Ill. Reg. 7617
130.401	Amendment	12/29/00, 24 Ill. Reg. 19030
130.2105	Amendment	01/12/01, 25 Ill. Reg. 386
130.120	Amendment	01/26/01, 25 Ill. Reg. 1169
130.2011	Amendment	01/26/01, 25 Ill. Reg. 1169
130.2012	Amendment	01/26/01, 25 Ill. Reg. 1169
130.1501	Amendment	02/09/01, 25 Ill. Reg. 2325
130.2004	Amendment	02/16/01, 25 Ill. Reg. 2676

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Melanie A. Jarvis
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers and purchasers of roof bolt supports and rib bolt supports intended to prevent mine collapse.

B) Reporting, bookkeeping or other procedures required for compliance: Minimal

C) Types of professional skills necessary for compliance: None13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section 130.101 130.105 130.110 130.111 130.111 130.120	Character and Rate of Tax Responsibility of Trustees, Receivers, Executors or Administrators Occasional Sales Sale of Used Motor Vehicles by Leasing or Rental Business Habitual Sales Nontaxable Transactions
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SUBPART B: SALE AT RETAIL

Section 130.201 130.205 130.210 130.215 130.220 130.225	The Test of a Sale at Retail Sales for Transfer Incident to Service Sales of Tangible Personal Property to Purchasers for Resale Further Illustrations of Sales for Use or Consumption Versus Sales for Resale Sales to Lessors of Tangible Personal Property Drop Shipments
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SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.305 130.310 130.315 130.320 130.321 130.325 130.330 130.331 130.332 130.335 130.340 130.345 130.350 130.351	Farm Machinery and Equipment Food, Drugs, Medicines and Medical Appliances Fuel Sold for Use in Vessels on Rivers Bordering Illinois Gasohol Fuel Used by Air Common Carriers in International Flights Graphic Arts Machinery and Equipment Exemption Manufacturer's Purchase Credit Automatic Vending Machines that Dispense Hot Food or Beverages Pollution Control Facilities Rolling Stock Oil Field Exploration, Drilling and Production Equipment Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment Aggregate Manufacturing
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SUBPART D: GROSS RECEIPTS

Section 130.701	General Information on Obtaining a Certificate of Registration
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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section 130.401 130.405	Meaning of Gross Receipts How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--Penalties--Discounts Traded-In Property
130.425	Deposit or Prepayment on Purchase Price
130.430	State and Local Taxes Other Than Retailers' Occupation Tax Penalties
130.435	Federal Taxes
130.440	Installation, Alteration and Special Service Charges
130.445	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section 130.501 130.502 130.505 130.510 130.515 130.520 130.525 130.530	Monthly Tax Returns--When Due--Contents Quarterly Tax Returns Returns and How to Prepare Annual Tax Returns First Return Final Returns When Business is Discontinued Who May Sign Returns Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations Registration of the Tax, Including Quarter Monthly Payments in Certain Instances
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section 130.601 130.605 130.610	Preliminary Comments Sales of Property Originating in Illinois Sales of Property Originating in Other States
130.610	Maintenance and Reclamation Equipment

Section 130.701	General Information on Obtaining a Certificate of Registration
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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section	Shows, Flea Markets and the Like
30.1901	Addition Agents to Plating Baths
30.1905	Agricultural Producers
30.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage
30.1915	Stamps and Like Articles
30.1920	Auctioneers and Agents
30.1925	Barbers and Beauty Shop Operators
30.1930	Blacksmiths
30.1935	Chiropractors, Osteopaths and Chiropractors
30.1940	Computer Software
30.1945	Construction Contractors and Real Estate Developers
30.1950	Co-operative Associations
30.1955	Dentists
30.1961	Enterprise Zones
30.1962	Sales of Building Materials to a High Impact Business
30.1965	Farm Chemicals
30.196f0	Finance Companies and Other Lending Agencies -- Installment Contracts -- Bad Debts
30.1965	Florists and Nurserymen
30.1970	Hatcheries
30.1971	Sellers of Pets and the Like
30.1975	Operators of Games of Chance and Their Suppliers
30.1980	Optometrists and Opticians
30.1985	Pawnbrokers
30.1990	Peddlers, Hawkers and Itinerant Vendors
30.1995	Personalizing Tangible Personal Property
30.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
30.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
30.2006	Sales by Teacher-Sponsored Student Organizations
30.2007	Exemption Identification Numbers
30.2008	Sales by Nonprofit Service Enterprises
30.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
30.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
30.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
30.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
30.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
30.2020	Physicians and Surgeons
30.2025	Picture-Framers
30.2030	Public Amusement Places
30.2035	Registered Pharmacists and Druggists
30.2040	Retailers of Clothing
30.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 1120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 1120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

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3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective March 15, 2001; amended at 25 Ill. Reg. 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg.

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4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 15, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6, 2001; amended at 25 Ill. Reg. _____, effective _____.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.351 Aggregate Manufacturing

a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. The exemption also applies to individual replacement parts for aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to equipment and replacement parts purchased for lease if those items are used primarily (more than 50%) in the activities noted above. The exemption does not apply to motor vehicles required to be registered pursuant to the Illinois Vehicle Code [625 ILCS 5].

1) "Aggregate" shall mean any mineral deposit or finished product including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal.

2) This exemption applies only to equipment used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. Use of the equipment in any other exploration, mining, off highway hauling, processing, maintenance or reclamation will not qualify for this exemption. Excluded from this reduction are motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Special mobile equipment other than motor vehicles may qualify for the exemption if it is used primarily in aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation. This exemption does not include supplies (such as chemicals, rust inhibitors, adhesives and explosives), coolants, lubricants, items of personal apparel (such as gloves, shoes, hats, helmets, coveralls, masks, mask air filters, belts, harnesses or holsters) or fuel of any type.

3) "Aggregate Exploration" means the search for aggregate. Exploration includes, but is not limited to, excavating, dredging, and drilling to locate aggregate deposits.

4) "Mining" means the extraction of aggregate from the earth by underground and surface mining and includes the extraction of aggregate by the mine owner or operator or his nonpurchaser successors from the waste or residue of prior mining.

5) "Off Highway Hauling" means carrying or transporting and would

DEPARTMENT OF REVENUE

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include transport of overburden or waste material, including byproduct materials from the processing facility for disposal and aggregate from the aggregate deposit to the processing facility by conveyors or unlicensed vehicles.

6) "Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing.

7) "Maintenance" means keeping aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment in a state of repair and efficiency.

8) "Reclamation" means conditioning areas affected by mining operations. Examples of reclamation activities include, but are not limited to, backfilling, grading, seeding and planting.

9) "Replacement Parts" means parts that are used to replace parts of qualifying equipment that require periodic replacement. To be considered a replacement part, the part must be purchased for the purpose of being installed and must, in fact, become a physical component part of aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation equipment.

10) "Kits" means commercially packaged sets of parts that are ordered from a manufacturer, inventoried, and sold by a retailer as a single item. An exempt example would be a "tire assembly" comprised of the rim, tire, foam filling and valve stem.

b) Exempt Activities. By way of illustration and not limitation, the following activities will be considered to constitute aggregate exploration, mining, off highway hauling, processing or maintenance:

1) Aggregate is produced in a surface mining operation that begins with the clearing of surface obstacles and overburden from the land above the aggregate deposit to be mined, continues with the removal of waste material and with the extraction of the aggregate, continues with the transportation from the aggregate deposit to the processing facility, continues further with the refilling and grading of the mined area with overburden and waste material, continues further with the processing of the aggregate, and ends with the stockpiling of the aggregate. By way of illustration and not limitation, the following equipment is exempt:

- A) Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.
- B) Equipment used to remove overburden and other waste materials from the deposit to be mined.
- C) Equipment used to modify the energy purchased for the surface mining process if the equipment is used to modify the energy for use on exempt equipment.
- D) Pumps, hoses, piping and discharge apparatus, used in the

DEPARTMENT OF REVENUE

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movement or removal of water or to divert water from the active mine area.

E) Equipment used to load the overburden, waste material or aggregate to be transported to the processing facility into off highway haulage trucks or onto a conveyor system.

F) Equipment used to extract aggregate from the earth.

G) Unlicensed off highway haulage trucks or a conveyor system to transport overburden, waste material or aggregate to the processing facility.

H) Equipment used to backfill, grade, seed, plant or otherwise reclaim previously mined land.

I) Crushing, screening and other equipment used to beneficiate and size aggregate products.

J) Tangible personal property used in or for the purpose of temporarily storing aggregate before processing is exempt if the aggregate is ultimately processed for resale and is in fact resold.

K) Equipment used in an aggregate wash plant to clean the aggregate prior to sale to customers.

L) Equipment used to blend different grades of aggregate together so that the final product meets customer specifications.

M) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field.

2) Aggregate is produced in an underground mining operation that begins with creating access from the surface to the aggregate deposit to be mined, continues further with the installation of roof supports, continues with the removal of waste material and the extraction of aggregate, continues further with the transportation from the aggregate deposit to the processing facility, continues further with the processing of aggregate and disposal of waste material from the mine and processing facility, and ends with the stockpiling of aggregate. By way of illustration and not limitation, the following equipment is exempt:

A) Equipment used to create access to the aggregate deposit and load aggregate into conveyor belts, trucks or other conveyances used to transport aggregate from the deposit to the processing operation.

B) Conveyor belts, trucks or other conveyances used to transport aggregate from the deposit to the processing operation.

C) The feeder and crusher used to break large pieces of aggregate.

D) Equipment used to modify the energy purchased for the underground mining process if the equipment is used to modify the energy for use on exempt equipment.

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E) Pumps, hoses, piping and discharge apparatus, used in the movement or removal of water or to divert water from the underground mine area.

F) Equipment used to install roof bolt supports and side rib bolt supports, and scaling prior to roof bolting, to prevent mine collapse.

G) Equipment used to coat mine walls with inert material for loose rock safety.

H) Equipment installed as improvements to real estate for mining, such as elevators and rail, ventilating and illuminating systems.

I) Additions to exempt underground rail conveyors and ventilating and illumination systems due to the progression of mining.

J) Equipment used to drill and load holes for blasting material used to fracture aggregate for extraction and to transport the blasting material.

K) Equipment used for transporting aggregate to above-ground facilities.

L) Tangible personal property used in or for the purpose of temporarily storing aggregate before processing if the aggregate is ultimately processed for resale and is in fact resold.

M) Equipment used in an aggregate wash plant to clean the aggregate prior to sale to customers.

N) Equipment used to blend different grades of aggregate together so that the final product meets customer specifications.

O) Electrical cable that is part of an electrical distribution system supplying electricity to exempt equipment in the field.

P) Roof bolt supports and side rib bolt supports to prevent mine collapse.

3) By way of illustration and not limitation, the following maintenance equipment is exempt:

A) Unlicensed maintenance and welding trucks used for field repair of exempt equipment.

B) Lathes, drill presses, air compressors and welders used to attach repair parts.

C) Mobile and overhead cranes.

D) Equipment used for dust suppression.

4) By way of illustration and not limitation, the following aggregate exploration equipment is exempt unless registered pursuant to the Illinois Vehicle Code:

A) Drill rigs used to drill exploration core holes.

B) Water trucks used in the drilling process.

C) Winch and casing trucks used in the drilling process.

D) Field maintenance trucks used to make repairs on field

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equipment.

E) Air compressors.

c) Nonexempt Activities

By way of illustration and not limitation, the following activities will not be considered to constitute aggregate exploration, mining, off highway hauling, processing or maintenance:

1) The use of equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate except for underground mine structures. Material, such as lumber, steel, concrete, rock and other building materials, will not qualify for the exemption except when used in underground mine structures;

2) the use of equipment in research and development for new uses of aggregate;

3) the use of equipment, trailers, sheds or structures in management, sales or other nonproduction, nonoperational activities including production of extraction scheduling, purchasing, receiving, accounting, fiscal management, communications, security, marketing, product exhibition and promotion, and personnel recruitment, selection or training;

4) the use of equipment to prevent or fight fires or other mining hazards and protective supplies such as face masks, gas masks, helmets, gloves, coveralls, goggles, or first aid equipment and supplies, even though such equipment and supplies may be required by law;

5) the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation;

6) facilities for storing aggregate after extraction and processing;

7) front-end loaders, cranes and equipment used to load aggregate onto trucks, railcars or barges for delivery to customers.

d) Sales to Lessors of Aggregate Exploration, Mining, OFF Highway Hauling, Processing, Maintenance and Reclamation Equipment

1) For the exemption to apply, the purchaser need not, himself, employ the equipment in aggregate exploration, mining, off highway hauling, processing, maintenance or production. If the purchaser leases the equipment to a lessee who uses it primarily in a qualified manner, the sale to the purchaser-lessor will be eligible for the exemption. A supplier may exclude such sales from his taxable gross receipts if the purchaser-lessor provides him with a properly completed certificate and the information contained therein would support a reduction if the sale were made directly to the lessee.

2) Should a purchaser-lessor subsequently lease the equipment to a lessee who does not use it primarily in a way that would qualify for the reduction, the purchaser-lessor will become liable for the tax that he previously did not pay. The tax will be assessed

DEPARTMENT OF REVENUE

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upon the fair market value of the equipment at the time of conversion.

e) Purchaser Certification

Certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily for aggregate exploration, mining, off highway hauling, processing, maintenance or reclamation. Sellers may accept blanket certificates, but have the responsibility to obtain and keep all certificates as part of their books and records. If a retailer accepts the certificate and the purchaser does not, in fact, use the equipment in a qualifying manner, the purchaser will be liable to the Department for the tax. Equipment that is initially used primarily in a qualifying manner and, having been so used for less than one-half of its useful life, is converted to nonqualifying uses, will become subject to tax at the time of conversion. Replacement parts purchased initially for use in a qualifying manner and used in a nonqualifying use will become subject to tax at the time of use.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Financing of Traffic Control Signal Installation, Modernization, Maintenance, and Operation on Streets and Highways Under State Jurisdiction

2) Code Citation: 92 Ill. Adm. Code 544
Proposed Action:
Amend

3) Section Numbers:
544.60

4) Statutory Authority: Implementing Section 4-201.12, and authorized by Section 4-201.1, of the Illinois Highway Code [605 ILCS 5/4-201.1 and 4-201.12].

5) A Complete Description of the Subjects and Issues Involved: Part 544 currently requires the Department and local agencies to share maintenance costs of traffic signals at any given intersection in proportion to the number of intersection approaches each agency maintains. For example, at an intersection with a 2-lane city street and a 2-lane State highway, the State and the local agency share the maintenance costs equally. The energy costs, however, are wholly the responsibility of the local agency. At the time the rule was developed, municipalities were able to negotiate energy costs for their communities through franchise agreements with utility companies. In many cases, electrical service to individual traffic signals was not even metered and the number of traffic signals made little, if any, difference in the amount the city paid for utilities. In some cases, the city paid no energy charges at all. Therefore, it made little sense to share whatever costs there may have been. However, under the current deregulated energy market, not all municipalities will have franchise agreements and cost for electricity has the potential to be much more expensive.

Because of the rising energy costs and the loss of franchise agreements, the Municipal League requested the Department consider paying a share of the energy costs in the same manner as the maintenance costs. Again, at an intersection with a 2-lane city street and a 2-lane State highway, the State and the local agency would share the energy costs equally. The Department reviewed the matter and determined that sharing the energy costs in the same manner as maintenance costs was fair and logical. The Department's agreement with this proposal is reflected in the proposed revision.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

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9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The revision will have a positive financial impact on local agencies having traffic signals on the State highways within their corporate limits. By the Department assuming a portion of the energy costs, the annual savings are estimated to be between \$750 - \$1,500 for each signalized intersection.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. Joe Hill, Chief, Engineer of Operations
Illinois Department of Transportation
Division of Highways
2300 S. Dirksen Parkway, Room 009
Springfield, Illinois 62764
(217) 782-7231

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The need for the revision only recently became apparent to Department officials, therefore, a description of this rulemaking was not published as part of a recent Department regulatory agenda.

DEPARTMENT OF TRANSPORTATION
NOTICE OF PROPOSED AMENDMENT

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER F: HIGHWAYS

PART 544
FINANCING OF TRAFFIC CONTROL SIGNAL INSTALLATION,
MODERNIZATION, MAINTENANCE, AND OPERATION ON
STREETS AND HIGHWAYS UNDER STATE JURISDICTION

Section	544.10	Title
544.20	Scope	
544.30	Traffic Signals	
544.40	Definitions	
544.50	Agreements and Permits	
544.60	Implementation	
544.70	Responsibilities	

AUTHORITY: Implementing Section 4-201.12, and authorized by Section 4-201.1, of the Illinois Highway Code [605 ILCS 5/4-201.1 and 4-201.12].

SOURCE: Adopted at 4 Ill. Reg. 17, p. 284, effective April 10, 1980; codified at 7 Ill. Reg. 2752; amended at 25 Ill. Reg. _____, effective _____.

Section 544.60 Implementation

a) Cost of Installation and Modernization:

1) An agreement between the Department and the local agencies will be prepared as outlined in Section 544.50 of this Part. In preparing the agreement, the costs to each agency will be determined on the basis of the following considerations.

A) When Federal funds are used on the project, the established percentage of Federal funds will first be deducted from the total and the remaining cost then proportioned to each agency as described in this Section below.

B) Any agency involved may voluntarily assume responsibility for another agency's share of the costs in order to expedite the installation or modernization.

C) In no case will the assigned cost to a local agency exceed 50 percent of its allotted Motor Fuel Tax funds for one year.

D) The local agency's portion of the cost may be paid from its Motor Fuel Tax funds over a two-year period.

2) The division of financial responsibility for the installation and modernization of the traffic signals will be as follows:

A) Intersection of Two State Highways. The Department will be responsible for the installation and modernization of the

DEPARTMENT OF TRANSPORTATION

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signals.

B) Ramp Terminals. The Department will be responsible for the installation and modernization of signals installed at the terminal of ramps connecting to or from a State highway.

C) Intersection of a State Highway and Other Public Streets or Highways. The Department and the local agencies will share the responsibility for the installation and modernization. The cost to each agency will be in proportion to the number of intersections approaches that it maintains. If existing signals must be relocated because the State highway is widened and no other work is to be done on the signals, the State will assume the entire cost of relocating the signals.

b) Cost of Maintenance

1) The division of financial responsibility for the maintenance of the traffic signals will be as follows:

A) Intersection Lying Wholly Outside the Corporate Limits of any Municipality. The Department will be responsible for the maintenance of the signals.

B) Intersection Lying Wholly or Partially Within the Corporate Limits of One or More Municipalities. The Department will assume the following costs for the maintenance of traffic signals on State Highways within municipalities.

i) The total costs for all signals at the intersections of two or more State highways.

ii) The total costs for all signals at intersections along State highways that have a level of average daily traffic in excess of 35,000 as shown on the latest published edition of the Department's traffic volume map. The District Engineer will determine the limits of this section within the municipality.

iii) The total costs for all signals located at the terminals of ramps connecting to or from a State highway.

iv) At all other intersections the Department and the municipalities will share in the cost of signal maintenance. The cost to the municipalities will be in proportion to the number of approaches that they maintain.

C) Maintenance costs of signals covered by individual agreements executed subsequent to the Master Agreement will be limited to the conditions defined in subsection **subparagraph (b)(1)(B)** above, except that either agency may accept the other's share of the maintenance cost of an individual signalized intersection when it is clearly in the best interest of the agency to do so. The District Engineer shall obtain the Engineer of Operations' Traffic's concurrence in accepting maintenance costs normally the responsibility of the municipality.

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D) The total cost of maintaining all other signals in a municipality not included in subsections subparagraphs (b)(1)(B) and (C) will be the responsibility of the municipality.

2) Municipalities will not be required to maintain or share in the cost of maintaining signals at an intersection on a State highway where the municipality's annual Motor Fuel Tax allotment is less than 50 percent of the current installation costs of the signals.

c) Energy Charges.

- 1) The division of financial responsibility for the energy charges will be as follows:
 - A) Intersection Lying Wholly Outside the Corporate Limits of any Municipality. The Department will pay the energy charges for the operation of the signals.
 - B) Intersection Lying Wholly Within the Corporate Limits of a Municipality. The municipality and the Department will share the energy charges according to the proportionate number of intersection approaches maintained by each agency ~~with-be-responsible-for-the-energy-charges.~~

c) Intersection Lying Partially Within the Corporate Limits of One or More Municipalities. The municipalities ~~municipalitytest~~ will be responsible for the energy charges.

2) Municipalities will not be required to pay or share in the cost of energy charges for signals at an intersection on a State highway where the municipality's annual Motor Fuel Tax allotment is less than 50 percent of the current installation cost of the signals.

d) Standard of Maintenance

- 1) Every signal must be maintained to at least the minimum level prescribed in the Illinois Manual on Uniform Traffic Control Devices. Exceptionally high traffic volumes, operational problems, or other special conditions may require a higher level of maintenance be established for certain individual signals or State highway segments. When required, the District Engineer may stipulate the higher level of service with the concurrence of the Central Engineer of Operations Traffic.
- 2) Where a municipality has demonstrated to the satisfaction of the District Engineer that it can provide the established level of maintenance with its own forces or through an ongoing contractual agreement, the District Engineer may authorize maintenance by the municipality.
- 3) Where the municipality does not wish to provide maintenance or where the District Engineer has determined the agency does not have the capability of providing the required level of service, the Department will maintain the signals.
- 4) The State reserves the right to take over the maintenance of the traffic signals and to bill the local agency for the cost of such

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maintenance upon 30 days' notice in writing, if the local agency fails to maintain the traffic signals as specified.

e) Billing

- 1) The agency providing the maintenance will bill the other agency for its appropriate share of the costs on a schedule determined by mutual agreement. The billing period shall not exceed one year.
- 2) The billing amount shall be for the maintenance cost incurred, less any third party damage claims received for repair of signals that are the responsibility of the billed party.
- 3) Any proposed single expenditure in excess of \$5,000 for repair of damage to a single installation must be approved by the billed party before the expenditure is made. The Department reserves the right to examine the records of the municipality to determine the costs billed are fully documented.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Partner Abuse Intervention2) Code Citation: 89 Ill. Adm. Code 5013) Section Numbers: Adopted Action:

501.10	New
501.20	New
501.30	New
501.40	New
501.50	New
501.60	New
501.70	New
501.80	New
501.90	New
501.100	New

4) Statutory Authority: Implementing the Domestic Violence Act [750 ILCS 60]5) Effective Date of Rulemaking: April 28, 20016) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: November 27, 2000; 24 Ill. Reg. 1743610) Has JCAR Issued a Statement of Objection to this rulemaking? No11) Differences between proposal and final version: Deleted "Hearing and" from 501.50 Section heading in Table of Contents and text.

Changed Authority Note to "Implementing the Domestic Violence Act [750 ILCS 60]".

In Section 501.20, changed "The Department has established" to "This Part is establishing".

In Section 501.20, changed last two sentences to read "A list of PAIPS determined to be in compliance with Subpart B is published and provided to Illinois courts three times annually. The Illinois courts may use this list to refer individuals to approved PAIP programs".

In Section 501.90(c)(5), deleted "treatment".

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12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes13) Will this rulemaking replace emergency rules currently in effect? No14) Are there any rules pending on this Part? No15) Summary and Purpose of Rulemaking: The rulemaking implements Section 5.463 of the Finance Act [30 ILCS 105/5.463]. The Domestic Violence Abuser Services Fund states that monies from that fund will be granted to abuser services programs in compliance with protocols promulgated by the Department for such programs. Current Department policy is to approve or disapprove programs based on their compliance with the standards contained in this rule.16) Information and questions regarding these adopted rules shall be directed to:

Ms. Susan Weir, Bureau Chief
 Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor, Harris Bldg.
 Springfield, Illinois 62762
 (217) 785-9772

The full text of adopted rules begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 501

PARTNER ABUSE INTERVENTION

SUBPART A: STANDARDS

Section

501.10 Definitions
501.20 Introduction
501.30 Purpose
501.40 Review Process
501.50 Appeal Grievance Procedures
501.60 Case-by-Case Resolution
501.70 Monitoring

SUBPART B: PROGRAM REQUIREMENTS

Section 501.80 Design
501.90 Educational Component
501.100 Other Components

AUTHORITY: Implementing the Domestic Violence Act [750 ILCS 60].

SOURCE: Adopted at 25 Ill. Reg. 6468-2, effective _____.

SUBPART A: STANDARDS

Section 501.10 Definitions

"Compliance proposal" - an application a program must submit to the Department for determination of compliance with the Department's standards for programs that work with perpetrators of domestic violence.

"Department" - the Illinois Department of Human Services.

"Domestic violence and abuse" - physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but not reasonable direction of a minor child by a parent or person in loco parentis. [750 ILCS 60/103]

"Domestic violence victim services program" - a program that offers comprehensive services to domestic violence victims and their children

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by trained domestic violence staff and/or volunteers. Comprehensive services include, at a minimum, legal advocacy, counseling specific to domestic violence (individual and/or group), and 24-hour shelter or access to such shelter.

"Facilitators" - persons who guide group discussions with, and/or present educational material to, participants of partner abuse intervention programs. Facilitators must be trained according to the guidelines indicated in this Part.

"Participants" - Individuals who, because of partner abuse, have been convicted of crimes, those who could have been convicted of crimes had they been prosecuted, or those who could have been prosecuted had they been arrested. These individuals have been ordered by the court to attend Partner Abuse Intervention Programs or have voluntarily chosen to attend those programs.

"Partner Abuse Intervention Programs" (PAIPs) - Programs that work with participants to assist them in recognizing and understanding behaviors that lead to violence directed at their partners. PAIPs can be part of private therapeutic practices or multi-service agencies or can be programs dedicated entirely to working with abusers.

"Victim of domestic violence" - an adult or a minor involved in a dating or engagement relationship against whom an individual has perpetrated intimate partner violence.

Section 501.20 Introduction

This Part is establishing standards for programs that work with individuals who commit domestic violence. To be approved as compliant with the standards, partner abuse intervention programs (PAIPs) must comply with Subpart B of this Part. PAIPs work with individuals who, because of their abusive acts, have been convicted of crimes, those who could have been convicted of crimes had they been prosecuted, or those who could have been prosecuted had they been arrested. A list of PAIPs determined to be in compliance with Subpart B is published and provided to Illinois courts three times annually. The Illinois courts may use this list to refer individuals to approved PAIP programs.

Section 501.30 Purpose

The purposes of the standards are:

- To establish minimum expectations of PAIPs for compliance review, monitoring and evaluation, and as guidelines for future program improvement;
- To ensure the safety and rights of victims and their children;
- To reduce and prevent domestic violence through effective intervention programs;

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- d) To ensure participants receive services that are effective;
- e) To ensure participants are held accountable for their abusive behavior;
- f) To provide recognition of current, appropriate intervention methods;
- g) To inform the public about the nature of services and standards of PAIPs; and
- h) To encourage statewide communication and interaction among service providers and related agencies towards the goal of ending domestic violence.

Section 501.40 Review Process

Compliance proposals from PAIPs seeking approval must be submitted to the Department. The Department will publish lists of approved PAIPs up to three times a year. The Department will notify listed programs of renewal dates and procedures. All compliance proposals will be reviewed by the Department and a committee of the Department's Domestic Violence Advisory Council. Committee members will make recommendations to the Department regarding the PAIP's compliance status, but the Department will make the final decision regarding approval. Each PAIP that submits a completed, signed compliance proposal will be notified, in writing, of the Department's disposition.

Section 501.50 Appeal Grievance Procedures

Should a PAIP wish to appeal the decision made by the Department, the PAIP must submit a written grievance to the Department within 30 calendar days after the denial. The Department, upon receipt of the written grievance, shall respond within 45 calendar days. The decision of the Department shall be final.

Section 501.60 Case-by-Case Resolution

Each grievance will be considered and resolved based on materials submitted by the grievant. Disposition of a grievance, whether through the granting of requested relief or otherwise, shall not constitute a precedent on which any other grievant should rely.

Section 501.70 Monitoring

The Department will monitor PAIPs for continued compliance with the standards.

SUBPART B: PROGRAM REQUIREMENTS

Section 501.80 Design

PAIPs must be designed to address violent and abusive behavior in the context of the standards set forth in Sections 501.90 and 501.100.

Section 501.90 Educational Component

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- a) Format and Structure
 - A) PAIP staff shall conduct educational sessions that participants must complete to graduate from the program. This component must consist of no fewer than 16 sessions, conducted weekly or once every two weeks, and include at least 32 hours of direct program contact, which does not include intake and assessment. Up to 4 hours of individual counseling may be included, but all remaining hours must be group work unless individual circumstances contraindicate group involvement.
- b) Content
 - 1) PAIPs must educate participants about the causes and forms of domestic violence.
 - 2) PAIPs must provide participants with skills for handling conflict situations without becoming abusive.
 - 3) PAIPs must promote attitudes that are associated with non-abusive behavior and challenge attitudes that are associated with abusive behavior.
 - 4) PAIPs must contain components that assist participants to develop skills for non-abusive behavior and equal partnerships. These components include, but are not limited to: non-violent conflict resolution; assertive, non-aggressive communication; and achievement and maintenance of positive, healthy, nurturing, and non-abusive parenting.
- c) Inappropriate Intervention Techniques
 - Inappropriate interventions include:
 - 1) Models that stress couples and family counseling and therapy. Some PAIPs may choose to provide or refer participants and their partners for other services in which they will be seen jointly, not as a treatment for domestic violence, but to address other issues. If this is to be done, the following conditions must be met:
 - A) the participant has been violence-free for six months;
 - B) a determination by the participant's counselor and victim's advocate that it is appropriate, not automatic at a set time;
 - C) an affirmative desire by the victim, which must include provision for safety at the facility;
 - D) separate screening of the participant and victim;
 - E) a determination that the victims do not hold themselves responsible for the abuse and that the victim is aware of resources and knows how to use them;
 - F) an affirmative statement from the participant that he accepts full responsibility for his actions;
 - G) the joint arrangement must be able to be terminated at any time in the process; and
 - H) the victim must never be required to attend counseling as a condition of service for the participant.

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- 3) Models that deny a participant's personal responsibility for violence.
- 4) Models that encourage the expression of rage.
- 5) Anger management techniques that place primary causality on anger and/or are the sole intervention rather than one part of a comprehensive approach.
- 6) Approaches that identify and treat violence as an addiction and the victim as enabling or co-dependent in the violence.
- 7) Theories or techniques that identify poor impulse control as the primary cause of the violence.
- d) Facilitator Teams and Group Composition
 - 1) Groups must be co-facilitated.
 - 2) Former perpetrators of domestic violence may co-facilitate, but only with another facilitator who has never been a perpetrator of domestic violence.
 - 3) Male and female participants must not be in the same group.
 - 4) The group size and age of participants should be appropriate to the intervention strategies.

Section 501.100 Other Components

- a) Service Coordination
 - PAIPS must establish and maintain cooperative working relationships with domestic violence victim services programs. PAIPS must also collaborate with other related individuals and agencies such as victims of domestic violence; victim advocates; State and local coalitions; mental health agencies; law enforcement; prosecution; judiciary; corrections facilities; medical personnel; substance abuse treatment providers; public health agencies; child protective service agencies; and any other agency involved in the delivery of services to participants, victims, and their children.
- b) Public Awareness
 - PAIPS must contribute to public awareness of the seriousness of domestic violence and coordinate public education and other prevention efforts with domestic violence victim services programs.
- c) Intake Process/Intake Assessment
 - At intake, an assessment of the participant must be conducted and must include, but not be limited to, the following:
 - 1) obtaining background information on the participant, violence used in the participant's family of origin, any partners of the participant, other relationships of the participant, criminal history and pending court actions;
 - 2) obtaining from the participant a descriptive history of the use of violence and other abusive behaviors, including those both within and outside the intimate relationship with special attention given to possible incidents of child abuse or neglect by the participant;
 - 3) assessing the participant for severe mental health problems or

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- disruptive behavior and referring to appropriate treatment, if appropriate;
- 4) screening for chemical dependency problems and following the procedures as outlined in subsection (e) of this Section;
- 5) assessing the degree of current risk to the victim or others, which may include information gathered directly from the victim about the participant's use of violence and other abusive behaviors, provided such contact with the victim can be done safely;
- 6) determining the precipitating incident; and
- 7) identifying the referral source.
- d) Exclusion
 - PAIPS must make a determination of whether an individual can benefit from the services at the initial assessment. This determination can be revised subsequently, based on additional information. Individuals who cannot benefit from the services must be referred for appropriate treatment. This would not preclude them from re-entering the PAIP when they meet the criteria.
- e) Substance Abuse
 - If the initial intake evaluation or subsequent evidence indicates drug and/or alcohol abuse, substance abuse treatment referrals must be initiated. Substance abuse must be addressed either prior to, or in conjunction with, and separate from, the PAIP.
 - If the intake assessment or subsequent contact reveals the possibility or actuality of child abuse or neglect, the PAIP must report it to the Department of Children and Family Services (DCFS). The PAIP must refer suspected cases of elder abuse, neglect and financial exploitation to the Department on Aging's Elder Abuse and Neglect Program.
- f) Contracts with Participants
 - PAIPS must establish a written contract with each participant that clearly spells out the obligations of the participant to the program. Reporting standards as described in subsections (m)(1) and (2) of this Section must be included in the contract.
- g) Completion Standards
 - PAIPS must develop standards that participants must meet in order to complete the program. These standards must include, at a minimum:
 - 1) fulfillment of all contractual requirements;
 - 2) admission of abuse, taking responsibility, and understanding of contributing factors;
 - 3) demonstration of understanding alternatives to abusive behavior and report use of those alternatives;
 - 4) demonstration of use of respectful language regarding a partner and understanding of benefits of egalitarian relationships;
 - 5) completion of any other PAIP requirements (i.e., substance abuse and/or mental health evaluations and treatment, etc.);
 - 6) no recent evidence of abusive behavior (information regarding the

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abuse can only be used if it will not endanger the victim); and

7) recognition that evidence of attitude/belief change indicated in the group may not always translate to behavior change in the relationship with a partner.

i) Evaluation PAIPs must develop methods for evaluating their effectiveness. At a minimum, PAIPs must use the criteria outlined in subsection (h) of this Section in the evaluations.

j) Victim Safety

1) PAIPs that are not part of domestic violence victim services programs must refer victims to such programs.

2) PAIP's policies and procedures must reflect program's priority of the safety and autonomy of victims and their children.

k) Ethical Standards

1) PAIPs and their personnel must meet standards outlined by professional groups with which they are affiliated.

2) Group facilitators must be violence-free in their own lives.

3) Group facilitators must consistently act and communicate in ways that do not perpetuate discriminatory attitudes or bias.

l) Confidentiality

1) Victim reports or notes must not be included in any participant's file.

2) Written or verbal reports of the partner's or victim's calls, comments or input must not be accessible to the participant.

3) Participants entering a PAIP are required to sign a release of information. The release must allow access to information, as needed, from the following entities:

A) relevant law enforcement, criminal justice, and court authorities;

B) mental health agencies;

C) victims of the abuse;

D) relevant significant others;

E) any persons or agencies to which the program would need to report compliance or subsequent or threatened abuse, an assessment or related ongoing data to plan for proper intervention, and/or to collaborate on an ongoing basis on an intervention plan.

m) Reporting

1) Facilitators and PAIPs must immediately report additional violence perpetrated or revealed by any participant involved in court-ordered PAIPs to appropriate authorities in the criminal justice system, with the following two exceptions:

A) If the report originates with the victim, the victim's consent must be obtained before reporting to authorities or confronting the participant with the information.

B) Reports of violence received from a third party, e.g., family or friend, may be reported to authorities except if to do so would place the reporter or victim in jeopardy.

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2) Facilitators must make every effort to notify the victim prior to making a report to authorities and must document these efforts. All reports of further violence must be documented in a manner that protects the confidentiality of victims and reporters.

3) PAIPs must immediately report a participant's threats to do harm or kill to the monitoring agency, e.g., probation officer, district attorney or court. The victim must also be notified of any threat of violence the participant makes in the course of therapy.

n) Victim Contact

1) PAIPs that choose to make victim contact must ensure the contacts are to determine if the victim is safe, to discuss safety issues and orders of protection, to get the victim's assessment of the participant's past and present abusive behavior, and to link the victim to a domestic violence victim services program, if the victim desires.

2) If the victim is the participant's current partner, or an ex-partner with whom the participant has an ongoing relationship, attempts to contact a victim must be a high priority.

3) PAIPs that choose to make victim contact must inform victims about the nature of the PAIP, participant's attendance at the PAIP, any threats made by participants, and participant's progress or lack of progress.

o) Referrals

1) PAIPs must develop procedures for accepting and rejecting court referrals. Those procedures must be developed in conjunction with the court system and must include reasons for rejection of referrals and recommendations for alternative referrals.

2) PAIPs must establish policies and procedures for reporting to instances of noncompliance with program rules and violations of orders of protection to the court system.

3) PAIPs must establish policies and procedures for reporting to referral sources of those participants who are referred by entities other than the court system.

p) Fee Structure

1) PAIPs must charge participants fees for services except when charging of fees is prohibited or when PAIPs determine participants are unable to pay.

2) PAIPs must establish a fee scale to cover the cost of the program. Fees must be based on either a sliding scale or alternative system that would accommodate inability to pay, enabling participants to afford services. PAIPs may allow participants to perform work or community service in lieu of full payment.

3) PAIPs must not refuse to accept participants with an inability to pay until such participants equal a minimum of 10 percent of the total clientele.

q) Staff Competency

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1) PAIP staff must be competent in general interpersonal skills required to relate to battering and abusive participants, general knowledge of human behavior and specific knowledge about domestic violence, and they must have attitudes and behavior consistent with these guidelines.

2) All PAIP direct service staff and supervisors must have completed the 40 hours of training consistent with the requirements of the Illinois Domestic Violence Act [750 ILCS 60] and an additional 20 hours of training in abuser services.

3) PAIPs must have written personnel policies and procedures. Included in these procedures must be provisions for supervision of and peer consultation between group facilitators.

4) Maintenance of Data

1) PAIPs must collect and maintain the following data in participants' files, unless otherwise noted:

A) age;

B) race;

C) address;

D) telephone number;

E) marital status;

F) children;

G) educational level;

H) employment;

I) income;

J) health history (including mental health, if appropriate release is obtained);

K) source of referral (if refused, reason for refusal);

L) charge type;

M) description of offense;

N) date of intake;

O) assessment;

P) signed release of information;

Q) signed contract;

R) date of program start;

S) attendance records;

T) case notes;

U) date of completion;

V) referrals to other agencies and purpose (with release of information);

W) record of payment;

X) Department of Children and Family Services contacts (if applicable).

2) PAIPs do not always receive the information listed below. However, if any of this information is available, it must be maintained in the participant files:

A) arrest records;

B) police reports;

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C) record of legal status (conviction, court dates, etc.);

D) repeat offenses and what happened;

E) if repeating, number of times;

F) correspondence with courts and others; and

G) copies of court orders.

3) PAIPs must aggregate and keep the following data in a statistical database:

A) number of referrals;

B) number of intakes completed;

C) number of participants refused entry;

D) number of participants referred to other resources;

E) number of participants re-arrested during the program, by category of offense;

F) number of participants mandatorily required to be in program;

G) number of participants in the program voluntarily;

H) number of participants in the program for the second time or the second offense; and

I) number of participants completing the program.

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Pre-Licensing and Continuing Education2) Code Citation: 50 Ill. Adm. Code 31193) Section Number: Adopted Action:

3119.10 Amendment
 3119.20 Amendment
 3119.30 Amendment
 3119.45 Amendment
 3119.60 Amendment
 EXHIBIT A Repealed
 EXHIBIT B Repealed
 EXHIBIT C Repealed
 EXHIBIT D Repealed
 EXHIBIT E Amendment
 EXHIBIT F Amendment
 EXHIBIT G Amendment
 EXHIBIT H Amendment

4) Statutory Authority: Implementing Section 494.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/494.1 and 401].5) Effective Date of Amendments: May 3, 20016) Do these amendments contain an automatic repeal date? No7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 27, 2000; 24 Ill. Reg. 1549610) Has JCAR issued a Statement of Objection to these Amendments? No11) Differences between proposal and final version:

- a) In the Table of Contents, EXHIBIT C, added "FOR PRE-LICENSING EDUCATION" following "COMPLETION".
- b) In the Table of Contents, EXHIBIT D, added "FOR" following "COMPLETION" and struck the parenthesis.
- c) In Section 3119.30(a), in the second sentence, deleted "in a format and contain the information as prescribed by the Director" and added the following: "accompanied by the appropriate fee (see 215 ILCS 5/509.1(a)(6) or (7)), be signed and dated by the provider and contain: the provider's name; FEIN and/or Social Security number of

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the individual provider; contact person and that person's telephone number; published provider telephone number; course title; first date course will be offered; whether course is for public education; class of insurance to which course is applicable; and type of course instruction (see 215 ILCS 5/494.1(c)).

- d) In Section 3119.30(a), in the third sentence, changed "Such" to "The". In addition, added "also" following "content".
- e) In Section 3119.30(e), in the second sentence, struck "be in a format". Also, following "contain", added "course number; credit hours; course title; reporting week being submitted; provider name; FEIN and/or Social Security number for the individual provider; student data (including student name and Social Security number, date course completed and either class of insurance for pre-licensing or credit hours for continuing education)" and struck "the information as prescribed by the Director".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: The Department is initiating these amendments primarily to implement the two year renewal cycle for continuing education requirements of insurance producers which were a part of P.A. 91-234, effective January 1, 2000. The Department is also going to allow providers to use the NAIC Midwest Zone Form for certification purposes pursuant to the requirements found in Section 3119.30(a) of this Part.
- In addition to minor housekeeping changes and the need for some clarification of standards, the Department is repealing Exhibits A, B, C and D at this time. Exhibits A and B are now outdated and have since been revised and posted to the Department's website at: www.state.il.us/ins/EduProviderInfo.htm. Exhibits C and D are made available in electronic format to continuing education providers upon registration with the Department.
- 16) Information and questions regarding these adopted amendments shall be directed to: John Mantalbano
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-1019

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NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page.

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ii: INSURANCE PRODUCER, LIMITED INSURANCE
REPRESENTATIVES AND REGISTERED FIRMS

PART 3119
PRE-LICENSING AND CONTINUING EDUCATION

Section	
3119.10	Purpose
3119.20	Definitions
3119.30	Provider Responsibilities
3119.40	Responsibilities of Applicant for Insurance Producer Licenses and Licensed Insurance Producers Until 1/1/97 (Repealed)
3119.45	Responsibilities of the Applicant for Insurance Producer Licenses and the Licensed Insurance Producers Beginning 1/1/97
3119.50	Pre-licensing – Course of Study Requirements
3119.60	Continuing Education Requirements
3119.70	Course and Provider Disqualification
3119.80	Severability
EXHIBIT A	REQUEST FOR CERTIFICATION OF A PRE-LICENSING COURSE <i>(Repealed)</i>
EXHIBIT B	REQUEST FOR CERTIFICATION OF A CONTINUING EDUCATION COURSE <i>(Repealed)</i>
EXHIBIT C	PROVIDER LIST – PROOF OF COMPLETION FOR PRE-LICENSING EDUCATION <i>(Repealed)</i>
EXHIBIT D	PROVIDER LIST – PROOF OF COMPLETION FOR CONTINUING EDUCATION† <i>(Repealed)</i>
EXHIBIT E	COURSE OF STUDY – LIFE
EXHIBIT F	COURSE OF STUDY – ACCIDENT/HEALTH
EXHIBIT G	COURSE OF STUDY – FIRE
EXHIBIT H	COURSE OF STUDY – CASUALTY/MOTOR VEHICLE

AUTHORITY: Implementing Section 494.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/494.1 and 401].

SOURCE: Adopted at 9 Ill. Reg. 80, effective January 1, 1985; amended at 15 Ill. Reg. 69, effective January 1, 1991; amended at 16 Ill. Reg. 126, effective January 1, 1992; amended at 18 Ill. Reg. 16568, effective November 1, 1994; amended at 20 Ill. Reg. 10340, effective July 19, 1996; amended at 21 Ill. Reg. 13820, effective October 15, 1997; amended at 25 Ill. Reg. 6480, effective MAY 1, 1998.

Section 3119.10 Purpose

The purpose of this Part is to establish pre-licensing pre-licensing education requirements for applicants for an insurance producer license, establish continuing education requirements for licensed insurance producers, and

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establish requirements for providers and instructors of pre-licensing prelicensing and continuing education courses.

(Source: Amended at 25 Ill. Reg. 6480-2, effective May 1, 2011)

Section 3119.20 Definitions

For the purposes of this Part, the following definitions shall apply:

Course - Any course of study certified to the Director which meets the requirements of this Part, including but not limited to seminar, classroom, self-study formats and interactive computer.

Date of Original Issue - The date of the issuance of a producer's license. Any lapse or suspension of 3 three years or more shall establish a new date of original issue and subject the person to this Part.

Provider - Any person who offers a course for which certification has been received by the Director.

Successful Completion - Passing an examination in accordance with criteria established by the provider.

Supervised Examination - A proctored, timed and closed book examination.

Traditional Long-Term Care (TLTC) and Long-Term Care Partnership (LTCP) Training Credit - Prescribed training required by licensed producers prior to the producer being allowed to sell TLTC and LTCP. This training is required pursuant to 50 Ill. Adm. Code 2012.122(d)(1) ~~test~~ and 2018.80(d) and may satisfy a part of the continuing education requirement if the course is filed with the Department as a continuing education course.

(Source: Amended at 25 Ill. Reg. 6480-2, effective May 1, 2011)

Section 3119.30 Provider Responsibilities

- a) Each provider shall submit a certification form to the Director for each course it intends to offer for pre-licensing or continuing education credit. Certification must be accompanied by the appropriate fee (see 215 ILCS 5/509.1(a)(6) or (7)), be signed and dated by the provider, and contain: the provider's name; FEIN and/or Social Security number of the individual provider; contact person and that person's telephone number; published provider telephone number;

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course title; first date course will be offered; whether the course is for public education; class of insurance to which course is applicable; and type of course instruction (see 215 ILCS 5/494.1(c)) on-a-form-as-prescribed-by-either-Exhibit--A--or--B--of--this--Part-7 whenever--is--applicable. The certification format and content have also been posted to the Department's website at: www.state.il.us/ins/EduProviderInfo.htm and will be made available upon request from the Department. Use of the NAIC Midwest Zone Form is also permissible for purposes of certification.

- b) Each provider shall submit a new certification form when there is a significant change in the course. No provider shall submit the same or substantially the same course content for more than one course.
- c) Each provider shall maintain a copy of all instructional materials for each course. If the provider ceases to offer a course or makes a significant change in course materials, the provider shall maintain the original material for 1 one year from the date such course was terminated or significantly changed.
- d) Each provider shall maintain the following records for 3 three years at a central location:
 - 1) Classroom or seminar - roster for each classroom course or seminar identifying the instructor(s), the student, the course, the location, the date and hours of attendance, the completion date, the examinations and the results of any examinations administered.
 - 2) Self-study or interactive computer - name of student, name of course, date of completion, the examinations, the results of examinations, and other applicable proof of completion.
 - e) Each provider shall provide to the Director a list of students who have successfully completed a pre-licensing or continuing education course. The list shall be-in-a-format--and contain course number; credit hours; course title; reporting week being submitted; provider name; FEIN and/or Social Security number for the individual provider; and student data (including student name and Social Security number, date course completed and either class of insurance for pre-licensing or credit hours for continuing education) ~~the information--as prescribed-by-the-Director~~. The information shall be submitted to the Director on computer diskette or other electronic method of transfer prescribed by the Director and in the specifications established by the Director. Each list shall be received by the Director within 10 ten days following the end of the week in which the course was completed. The list shall be compiled pursuant to the criteria established in Section 3119.50(b) and (d) or Section 3119.60(d) of this Part. The date of completion for a course with an examination shall be the date concurrent with the date the examination is graded by the provider.
- f) Instructors shall meet the following minimum requirements; either a Bachelor's degree or 3 three years experience in the course subject matter. Providers must maintain evidence of such qualifications while

DEPARTMENT OF INSURANCE

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the instructor is actively engaged in instructing the course and for 1 one year thereafter.

g) Providers shall, upon the request of the Director, provide a copy of all course material, provider records, and evidence of instructor's qualifications to the Director. All such requests shall be subject to a warrant of the Director and for the express purpose of gauging compliance with the Illinois Insurance Code and Departmental regulations pertaining thereto.

h) The Director may make arrangements, including contracting with an outside service administrator, for the purpose of administrating and collecting the educational data from the providers. Under such an arrangement all, or a portion of the reporting requirements of the provider shall be made to the servicing administrator.

(Source: Amended at 25 Ill. Reg. 6480-2, effective 6480-2)

Section 3119.45 Responsibilities of the Applicant for Insurance Producer Licenses and the Licensed Insurance Producers Beginning 1/1/97

a) Applicants for Insurance Producer Licenses

Prior to taking the licensing examination each applicant shall complete the pre-licensing education requirements for each class of insurance for which an examination is being taken. The pre-licensing education course must be used within 1 one year after completion.

b) Licensed Insurance Producers

1) Each producer shall complete 30 15 hours of continuing education requirements prior to requesting an extension of an insurance producer license. The producer should complete the course no later than 1 month four-weeks prior to the license extension date to allow time for the provider to submit proof of completion to the Director. Each producer shall maintain a record of each course completed for 3 three years from the date of completion. The record shall include the name of the provider, the course title, and the date of completion.

2) Hours taken, course material provided, or presented in whole or in part, or in conjunction with a pre-licensing course which is not certified as pre-licensing education requirement shall not be used to meet continuing education requirements.

3) Courses initiated or completed prior to the original issue date of the license shall not be used to meet continuing education requirements.

4) The credit hours will be applied in the order they are received by the Department. The producer may accumulate a maximum of 45 credit hours on file with the Department.

(Source: Amended at 25 Ill. Reg. 6480-2, effective 6480-2)

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NOTICE OF ADOPTED AMENDMENTS

Section 3119.60 Continuing Education Requirements

a) The certification form must be received by the Director at least 30 days prior to any course being offered.

b) For purposes of this Section, "full credit" shall mean the amount of time, as certified by the provider that is necessary for a student to study for and pass an examination, or in the case of a course with no examination, the number of documented classroom attendance hours.

Courses shall be intended to increase the knowledge and understanding of insurance principles and coverages, applicable laws, insurance regulations, agency management, customer service and sales. The following courses shall not be considered for continuing education:

1) Courses used for insurance pre-licensing training or insurance qualifying examination preparation.

2) Courses with less than 3 three hours of certified continuing education credit.

d) The value of course credit for purposes of this Section shall be determined as follows:

1) Supervised Examinations

A) Successful Completion Students who successfully complete a supervised examination will receive full credit for the course.

B) Unsuccessful Completion Students who do not successfully complete a supervised examination shall receive one hour of credit for each hour of documented classroom attendance not to exceed 50% of full credit.

2) Non-Supervised Examination

A) Successful Completion Students who successfully complete a non-supervised examination will receive full credit for the course.

B) Unsuccessful Completion Students who do not successfully complete a non-supervised examination will receive no credit.

3) Courses Without Examination

Students will receive credit for documented attendance based on the certified hours assigned to the course.

4) All Examinations

A) No students shall evaluate their own examination. The evaluation of the examination must be completed by the provider.

B) No provider shall furnish the answers to an examination prior to the student completing the examination.

C) Credit shall be given based only upon the results of the examination the first time the examination is completed by the student.

A) TLTC and LTCP Training Credit

Continuing education credit may be earned based on the

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Criteria established in subsection (d) of this Section.

B) Training credit may be obtained after a failed examination if the provider gives, and the student successfully completes, a substantially different examination.

C) If a student receives training credit only, the provider shall issue a proof of completion certificate to the student but the certificate shall be prominently stamped "NO CON-ED CREDIT".

e) No additional credit will be given to a producer for a repeated course unless 3 three years have passed since credit was given for the course.

f) Until January 1, 1997, the maximum credit a producer can receive for any one course is 25 hours.

g) After December 31, 1996, the maximum credit for any course is 15 hours.

h) Continuing education instructors may receive continuing education credit or courses they teach. The credit earned shall be determined pursuant to the criteria established in this Section.

(Source: Amended at 25 Ill. Reg. 6480-7 effective 1-1-97)

1) DO NOT SEND PAYMENT WITH THIS REQUEST... Upon approval you will be billed the appropriate fee.

2) Submit a separate Exhibit A for each class of insurance.

3) In addition to this request, please submit a time course outline in accordance with Exhibits E, F, G and H in Rule 3119.

4) Record all times in hours.

5) If using a publisher's course, submit a copy of the title page with date of copyright and exam method, if any

Please indicate the dates below the amount of time you will spend on each type of instruction method.

1 = Classroom only. 2 = self-study only 3 = interactive computer only. 4 = combination method only

Method

Type of Instruction	1	2	3	4
Classroom or Seminar Hours				
Self-Study Hours (must have exam)				
Interactive Computer Hours				
Other Hours				
Exam Hours				
Total Number of Credit Hours Requested				
Exam Method: S=Supervised N=NonSupervised O=No Exam				

Federal Employer's I.D.	<input type="checkbox"/>
Social Security #-Individual	<input type="checkbox"/>
2. Phone # for Contact Person	<input type="checkbox"/>
Provider's Address (street, city, state, zip code)	<input type="checkbox"/>
Provider's Name	<input type="checkbox"/>

First date course to be offered Public Education Yes No

Course Title

Class of Insurance to which Course is Applicable

— Life — Accident & Health — Property — Casualty — Motor Vehicle

INSTRUCTIONS

Section 3119, Exhibit A
Request for Certification of a PRE-LICENSING COURSE (Repealed)

We certify the above information is accurate and failure to comply with 50 Ill. Admin. Code 3119 may result in disqualification.

X Signature **6480** Date **1-1-2001** Effective **1-1-2001**
Printed Name **MMAT - J 2001** Title **MMAT - J 2001**

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

Section 3119. Exhibit B
Request for Certification of a CONTINUING EDUCATION COURSE (Repealed)
2011
Springfield, IL #2757-000

Please Print or Type		Provider's Name		Federal Employer's ID	
				<input type="checkbox"/> Social Security #-Individual <input type="checkbox"/> Social Security # - Organization <input type="checkbox"/> Social Security # - Other <input type="checkbox"/> Other	
Provider's Address (Street, City, State, Zip Code)					
Contact Person		Published Phone #		First date course to be offered	
				Public Education Yes () No ()	
				Motor Vehicle Yes () No ()	
				Casualty Yes () No ()	
				Long-Term Care Partnership (2) Yes () No ()	
				Property Yes () No ()	
				Accident & Health Yes () No ()	
				Life Yes () No ()	
				Course Title	
				Class of Insurance to which Course is Applicable	
				1) Specific content established by S0111, Admin. Code 2012 2) Specific content established by S0111, Admin. Code 2012	

INSTRUCTIONS

2 Self-study courses must have an examination

3 Credit will not be given to sales, marketing, prospecting or other non-insurance content unless material is incidental to and an integral part of the course

4 No credit will be given for general business, accounting, management, communication or computer operations

5 In addition to this request submit a **TIME-D** course outline including a course objective statement

6 For credit purposes: 50 minutes = 1 hour in Illinois

7 Record all times in hours. Maximum credit (25 hours): minimum credit (3 hours)

8 Using a publisher's course, submit a copy of the title page with date of copyright, and exam method, if any

Please indicate in the boxes below the amount of time you will spend on each type of instruction method

1 = Classroom only 2 = self-study only 3 = interactive computer only 4 = combination method only

Type of Instruction	1	2	3	4
Classroom or Seminar Hours				
Self-Study Hours				
Interactive Computer Hours				
Other Hours				
Exam Hours				
Total Number of Credit Hours Requested				
Exam Method S=Supervised N=No Exam				
Comments				
<input type="checkbox"/> Course certified for CE Hours <input type="checkbox"/> Course not certified				
Comments _____ Date _____				
By _____				
Date _____				
Signature _____				
Source: Reprinted at 25 Ill. Reg. 6480 (1995)				
Comments: We certify the above information is accurate and failure to comply with 50 Ill. Adm. Code 3119 may result in disqualification				

We certify the above information is accurate and failure to comply with 50 IL Admin. Code 3119 may result in

X

Signature	Source Repeated at 25 III Reg	Date	Printed Name	Title
		04-80	Effective May - 3, 1980	1

(Source: Repealed at 25 (1) Reg. 6480 effective MAY - 3 2001)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Provider List --Proof of Completion for Pre-Licensing Education (Repealed)

Information Must Be Printed or Typed or Computer Generated		Credit Hours (15 maximum/1/2 M.V.)	
Course Number	Course Title		
Reporting Period Week (month/day/year)		Date Submitted	Date
Certified Provider Name		Provide Social Security Number (if an individual)	
Provider/Federal Employer's ID Number (FEIN)		I certify that the information in this provider list is true and correct to the best of my knowledge, and that a false statement is cause for provider disqualification	
Authorized Signature of Provider		Printed Name of Instructor	
Printed Name of Authorized Signature		/	
INSTRUCTIONS			
<p>1 Providers must submit a list of course data and student data as illustrated in the format on this form to the Department or to the Department's designee</p> <p>2 For every course completed the list must be received within 10 days of the end of the week in which the course was completed. Submit a list for each course completed during the reporting period and arrange the student names in alphabetical order by date of completion. Early submissions are welcome</p> <p>3 If additional space is needed to accommodate the student list, each page should be headed as follows</p>			
COURSE NUMBER		PROVIDER NAME	
REPORTING PERIOD			
SOC SEC NUMBER		STUDENT NAME	CLASS (1 A.H. PIC. M.V.)
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(Source: Repealed at 25 (I) Reg. 6480 — Effective MAY - 3 2001)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

A. Standard fire policy

1. General property form including extended coverage
2. Time element policy
 - a. Gross earnings
 - b. Earnings
 - c. Extra expense
- B. Homeowners
- C. Inland marine-Personal article floater and pleasure craft
- D. Special multi-peril
- E. National flood
- F. FAIR Plan
- G. Mine subsidence

IV. Perils, Exclusions, Deductibles, and Liability

- A. Property covered
- B. Perils covered
- C. Exclusions, extensions, limitations, and conditions
- D. Deductibles
- E. Limits of liability
- F. Bodily injury and property damage liability

V. Prospecting and Evaluating Needs

- A. Keeps current as to changes (e.g., markets, introduction of new coverages) in types of coverages that might expand coverage for current clients or increase the number of potential clients
- B. Reviews prospect's existing policies to prevent duplication of coverage and determine areas of further potential coverage
- C. Obtains information necessary to analyze risks, hazards, and exposures
- D. Analyzes risks, hazards, and exposure in order to determine prospect's needs
- E. Evaluates continued adequacy of protection, determines unprotected exposures, and recommends suitable changes in coverage
- F. Contacts accounts at renewal time and reviews existing policies

VI. Servicing Clients

- A. Explains services (e.g., claims, safety programs) provided by insurance producer agent and company
- B. Assists policyowner with service needs (e.g., change of name, change of mode of premium payment)
- C. Maintains accurate records of client data (e.g., change of address)
- D. Assists in filing and following up on claims

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

VII. Presentation and Acceptance

28

- A. Informs insured and carrier of data and time coverage takes effect
- B. Prepares and forwards proposal, application, and other pertinent information to appropriate carrier for underwriting and premium determination
- C. Maintains complete records of all business transactions as required (e.g., pending files, binders, binder charges, and premium accounting)

(Source: Amendments at 25 III. Reg. 6480, effective MAY-3-2001)

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VIII. Premium Accounting

28

- A. Maintains complete records of all business transactions as required (e.g., pending files, binders, binder charges, and premium accounting)
- B. Prepares and forwards proposal, application, and other pertinent information to appropriate carrier for underwriting and premium determination
- C. Maintains complete records of all business transactions as required (e.g., pending files, binders, binder charges, and premium accounting)

IX. Premium Accounting

28

- A. Maintains complete records of all business transactions as required (e.g., pending files, binders, binder charges, and premium accounting)
- B. Prepares and forwards proposal, application, and other pertinent information to appropriate carrier for underwriting and premium determination
- C. Maintains complete records of all business transactions as required (e.g., pending files, binders, binder charges, and premium accounting)

X. Premium Accounting

28

- A. Maintains complete records of all business transactions as required (e.g., pending files, binders, binder charges, and premium accounting)
- B. Prepares and forwards proposal, application, and other pertinent information to appropriate carrier for underwriting and premium determination
- C. Maintains complete records of all business transactions as required (e.g., pending files, binders, binder charges, and premium accounting)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Section 3119. EXHIBIT H COURSE OF STUDY - CASUALTY/MOTOR VEHICLE

Course of Study Content Requirements Time Distribution Requirements

I. Insurance and Insurance-Related Concepts

25%

- A. Risks
- B. Hazards
- C. Indemnity
- D. Insurable interest
- E. Actual cash value
- F. Negligence
- G. Liability
- H. Accident
- I. Occurrence
- J. Burglary
- K. Robbery
- L. Theft
- M. Mysterious disappearance
- N. Fidelity (employee dishonesty)
- O. Warranties
- P. Representations

II. Policy Provisions

20%

- A. Declarations
- B. Definition of the insured
- C. Insuring agreement
- D. Duties of the insured
- E. Obligations of the company
- F. Cancellation and nonrenewal provisions
- G. Supplementary payments (additional coverages)
- H. Proof of Loss (notice of claim)
- I. Arbitration
- J. Pro rata liability (other insurance)
- K. Subrogation
- L. Compliance with provisions of Fair Credit Reporting Act

III. Types of Policies

25%

- A. General liability
 - 1. Owners, landlords, and tenants
 - 2. Manufacturers, contractors
 - 3. Products and completed operations
 - 4. Contractual liability
 - 5. Comprehensive general liability

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

B. Automobile-Personal and commercial auto insurance, including assigned risk and involuntary plans

- C. Workers Compensation
- D. Crime

- 1. Fidelity
- 2. Open stock burglary
- 3. Mercantile robbery and safe burglary
- 4. Money and security broad form

- IV. Perils, Exclusions, Deductibles, and Liability
- 24%
- A. Bodily injury and property damage liability
- B. Perils covered
- C. Exclusions, extensions, limitations, and conditions
- D. Limits of liability
- E. Deductibles

- V. Prospecting and Evaluating Needs
- 2%
- A. Keeps current as to changes (e.g., markets, introduction of new coverages) in types of coverages that might expand coverage for current clients or increase the number of potential clients
- B. Reviews prospect's existing policies to prevent duplication of coverage and determine areas of further potential coverage
- C. Obtains information necessary to analyze risks, hazards, and exposures
- D. Analyzes risks, hazards, and exposures in order to determine prospect's needs
- E. Evaluates continued adequacy of protection, determines unprotected exposures, and recommends suitable changes in coverage
- F. Contracts accounts at renewal time and reviews existing policies

VI. Servicing Clients

- A. Explains services (e.g., claims, safety programs) provided by insurance producer agent and company
- B. Assists policyowner with service needs (e.g., change of name, policy loans, change of mode of premium payment)
- C. Maintains accurate records of client data (e.g., change of address)
- D. Assists in filing and following up of claims

VII. Presentation and Acceptance

- 2%
- A. Informs insured and carrier of date and time coverage takes effect

DEPARTMENT OF INSURANCE

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B. Prepares and forwards proposal, application, and other pertinent information to appropriate carrier for underwriting and premium determination

C. Maintains complete records of all business transactions as required (e.g., pending files, binders, and binder charges)

(Source: Amended at 25 Ill. Reg. 6480 effective

MAY - 2001)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code

2) Code Citation: 77 Ill. Adm. Code 350

3) Section Numbers: Adopted Action:
350.683 Amendment
350.3760 Amendment
350.3850 Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Rulemaking: May 15, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: November 27, 2000 - 24
Ill. Reg. 17448

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
In Section 350.3760(j), the comma after "expired" was stricken and "and" was stricken.

The following changes were made in response to comments and suggestions of the JCAR:

No change were requested.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.

13) Will this rulemaking replace an emergency rulemaking currently in effect? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Section 350.683 has been amended to implement Public Act 91-598, which amended the Nursing Home Care Act to allow the Department to accept comparable training for employees of the Department of Human Services as equivalent training for habilitation aides.

Section 350.3760 has been amended to implement Public Act 91-630. This legislation amended the Mental Health and Developmental Disabilities Administrative Act to authorize nurses to delegate direct care staff to administer medication in several health care settings, including all intermediate care facilities for the developmentally disabled with 16 beds or fewer that are licensed by the Department of Public Health. The Department of Human Services was required to develop a training program for authorized direct care staff to administer oral and topical medications under the supervision and monitoring of a registered professional nurse. The DHS training requirements are being referenced in Section 350.3760. Requirements for the administration of over-the-counter medications on an "as needed" basis are also included.

Section 350.3850 has been amended to change "15 Beds or Less" to "16 or fewer beds" to correctly reflect this licensure category.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	General Requirements
350.110	Application for License
350.120	Licensee
350.130	Issuance of an Initial License for a New Facility
350.140	Issuance of an Initial License Due to a Change of Ownership
350.150	Issuance of a Renewal License
350.160	Criteria for Adverse License Actions
350.165	Denial of Initial License
350.170	Denial of Renewal of License
350.175	Revocation of License
350.180	Experimental Program Conflicting With Requirements
350.190	Inspections, Surveys, Evaluations and Consultation
350.200	Filing an Annual Attested Financial Statement
350.210	Information to Be Made Available to the Public By the Department
350.220	Information to Be Made Available to the Public By the Licensee
350.230	Municipal Licensing
350.240	Ownership Disclosure
350.250	Issuance of Conditional Licenses
350.260	Monitor and Receivership
350.270	Presentation of Findings
350.271	Determination to Issue a Notice of Violation or Administrative Warning
350.272	Determination of the Level of a Violation
350.274	Notice of Violation
350.276	Administrative Warning
350.277	Plans of Correction
350.278	Reports of Correction
350.280	Conditions for Assessment of Penalties
350.282	Calculation of Penalties
350.284	Determination to Assess Penalties
350.286	Reduction or Waiver of Penalties
350.288	Quarterly List of Violators (Repealed)
350.290	Alcoholism Treatment Programs In Long-Term Care Facilities
350.300	Department May Survey Facilities Formerly Licensed
350.310	Supported Congregate Living Arrangement Demonstration
350.315	Waivers
350.320	Definitions
350.330	Incorporated and Referenced Materials

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: ADMINISTRATION

Section	Administrator
SUBPART C: POLICIES	

Section

350.510	Management Policies
350.610	Resident Care Policies
350.620	Determination of Need Screening
350.625	Admission and Discharge Policies
350.630	Contract Between Resident and Facility
350.640	Residents' Advisory Council
350.650	General Policies
350.660	Personnel Policies
350.670	Initial Health Evaluation for Employees
350.675	Developmental Disabilities Aides
350.680	Health Care Worker Background Check
350.681	Resident Attendants
350.682	Registry of Developmental Disabilities Aides
350.683	Student Interns
350.685	Disaster Preparedness
350.690	Serious Incidents and Accidents
350.700	

SUBPART D: PERSONNEL

Section

350.810	Personnel
350.820	Consultation Services
350.830	Personnel Policies

SUBPART E: RESIDENT LIVING SERVICES

Section

350.1010	Service Programs
350.1020	Psychological Services
350.1030	Social Services
350.1040	Speech Pathology and Audiology Services
350.1050	Recreational and Activities Services
350.1055	Volunteer Program
350.1060	Training and Habilitation Services
350.1070	Training and Habilitation Staff
350.1080	Restraints
350.1082	Nonemergency Use of Physical Restraints
350.1084	Emergency Use of Physical Restraints
350.1086	Unnecessary, Psychotropic and Antipsychotic Drugs

SUBPART F: HEALTH SERVICES

Section

350.1210	Health Services
350.1220	Physician Services
350.1223	Communicable Disease Policies
350.1225	Tuberculosis Skin Test Procedures
350.1230	Nursing Services
350.1235	Life-Sustaining Treatments
350.1240	Dental Services
350.1250	Physical and Occupational Therapy Services

SUBPART G: MEDICATIONS

Section

350.1410	Medication Policies and Procedures
350.1420	Conformance with Physician's Orders
350.1430	Administration of Medication
350.1440	Labeling and Storage
350.1450	Control of Narcotics and Legend Drugs

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SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

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APPENDIX D Forms for Day Care in Long-Term Care Facilities

APPENDIX E Guidelines for the Use of Various Drugs

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TABLE G Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16)

TABLE H Heat Index Table/Apparent Temperature

TABLE I Implementing and authorized by the Nursing Home Care Act [210 ILCS 45]

TABLE J Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1998;

TABLE K Emergency rules adopted at 4 Ill. Reg. 16557, effective September 18, 1998;

TABLE L Emergency rules adopted at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 6499, effective

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1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 6499, effective

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MAY 17, 2011

SUBPART C: POLICIES

Section 350.683 Registry of Developmental Disabilities Aides

a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Programs Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 350.681 of this Part, and when there are no findings of abuse, neglect or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act.

b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 350.681 of this Part and submits documentation supporting one of the following equivalencies:

- 1) Documentation of current registration from another state as a developmental disabilities aide.
- 2) Documentation of successful completion of a developmental disabilities aide training course approved by another state as evidenced by a diploma, certification, or other written verification from the school. The documentation must demonstrate that the course is equivalent to, or exceeds, the requirements for developmental disability aides in the Department's rules governing long-term care assistant and aide training programs (77 Ill. Adm. Code 395).
- 3) Documentation of successful completion of a Mental Health Technician Training Program conducted by the Department of Human Services Mental-Health-and-Developmental-Disabilities.
- 4) Documentation of completion of the Direct Support Core Training Program as an employee of the Department of Human Services.

c) An individual shall notify the Nurse Aide Registry of any change of address within 30 days and of any name change within 30 days and shall submit proof of any name change to the Department. (Section 3-206.01 of the Act)

(Source: Amended 1/5/2011, 25 Ill. Reg. 6499, effective _____)

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES
FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section 350.3760 Medication Policies

a) In order for each resident to attain the highest possible level of independent functioning, all residents shall be permitted to participate in their total health care program. This program shall

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include, but not be limited to, resident training in preventive health and self-medication procedures provided by a licensed nurse. Every facility shall adopt written preventive health and self-medication policies and procedures, which are consistent with the purpose of the Act and this Part and which shall be followed in the operation of the facility, for assisting residents in obtaining preventive health and self-medication skills. These policies and procedures shall be developed with consultation from an Illinois registered professional nurse and a registered pharmacist. These policies and procedures shall be part of the written program of care and services. (See Section 350.620.)

- b) No facility shall operate a pharmacy.
- c) A facility may stock only drugs which are regularly available without prescription at a commercial pharmacy, such as: noncontrolled cough syrups, laxatives, and analgesics. These shall be given to a resident only upon the written order of the physician, dentist, or podiatrist; shall be administered from the original containers; and shall be recorded in the resident's clinical record.
- d) No emergency medication kit shall be maintained in this type of facility.
- e) Nursing stations are not required in this type of facility.
- f) Current medical references are not required in this type of facility.
- g) All medications on individual prescription or from the physician's personal supply shall be properly labeled as set forth in subsection (r) Section-350-3760(fg).
- 1) All other medications shall be authorized by a physician for individual resident use, and shall be clearly identified with the resident's name.
- 2) Attending physicians shall review the medication regimen of each resident at least every six months. Documentation of this review shall be entered in the resident's record.
- h) All medications used by residents shall be properly recorded by facility staff at time of use. (See Section 350.1620(g).) A medication record need not be kept for those residents for whom the attending physician has given permission to keep their medication in their room and to be fully responsible for taking the medications in the correct dosage and at the proper times themselves.
- i) Bottled oxygen may not be administered in a facility, except in an emergency. Not more than one 12 pound portable size tank of oxygen for such an emergency use shall be kept in the facility. However, use of an oxygen concentrator is permitted when prescribed by a physician for a resident. The facility must be in compliance with directions for use of such equipment as established by the manufacturer.
- j) All discontinued legend or controlled drugs, all medications having an expiration date that has passed, and all medications of residents who have expired, shall be disposed of in accordance with the rules-and regulations of the Federal Drug Enforcement Administration by the prescribing physician or the consultant pharmacist. A notation of the

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their disposition shall be made in the resident's record.

k) All medications taken by residents in this type of facility must be administered by a nurse or physician licensed to practice in Illinois unless the medication is self-administered by the resident. Facility staff shall not administer medication to residents unless the staff person is a properly licensed nurse or physician.

1) All residents shall be evaluated by the facility's interdisciplinary team to determine their self-medication capability. Each resident determined to have the capability to learn to administer his/her own medications shall have written training and habilitation objectives developed by the interdisciplinary team based upon this evaluation and stated in specific behavioral terms that permit the progress of the resident to be assessed and recorded.

2) The facility shall provide, either directly or through arrangements with the consultant nurse, training and supervision necessary for identified residents to gain independence in self-administering their own medications as approved in writing by the resident's personal physician, and documented in the resident's individual plan.

3) Facility staff may assist a resident in the self-administration of medications by taking the medication from the locked area where it is stored and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident. Facility staff may also assist physically impaired residents, such as those who have arthritis, cerebral palsy, or Parkinson's disease, in the removal of the medication from the container and in assisting the resident in consuming or applying the medication when requested to do so by the resident. (For example, a staff member may place a dose of medicine in a container and place the container to the mouth of a resident who would not be able to do so without spilling it.)

4) To be considered "capable of self-administering their own medications," residents must, at a minimum, be able to identify their medication by size, shape, or color and know when they should take it, and the amount to be taken each time.

1) Medication may be administered by non-licensed direct care staff who have been trained and authorized in accordance with 59 Ill. Adm. Code 116 (Administration of Medication in Community Settings). In addition to the requirements set forth in 59 Ill. Adm. Code 116.50, medications shall be given "as needed" or "PRN" only as follows:

1) Only over-the-counter medications such as those listed in 59 Ill. Adm. Code 116.50(e), with the exception of laxatives, shall be administered PRN;

2) Facilities may develop and follow policies limiting the administration of PRN medication;

3) Each client's medical record shall state what medications may be

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administered PRN and shall include documentation of administration of PRN medication; and

4) A licensed professional shall be notified within 24 hours after the administration of PRN medication by unlicensed direct care personnel.

mt) All medications shall be stored under lock and key at all times. The storage area shall be well lighted and of sufficient size to permit storage without crowding. This area may be a metal container, drawer, cabinet, closet, or room. A separate medication room is not required.

nm) The key to the medicine area shall be the responsibility of, and in the possession of, the staff persons responsible for overseeing the self-administration of medications by residents.

1) The medicine area shall not be used for any other purpose. However, for those persons whom the attending physician has given written permission to handle their own medication, medications may be stored in a locked metal container, drawer, or cabinet in the resident's room along with other possessions of that resident.

2) Residents for whom the attending physician has given permission to be totally responsible for their own medication shall maintain possession of the key, or combination of the lock, to their own medication storage area. A duplicate key or a copy of the combination shall be kept by the facility in its safe, or some other secure place, for emergency use, such as if residents lose or misplace their key, or forget the combination.

qn) Medications for external use shall be kept in a separate location in the medicine area or in a separate locked area.

po) All poisonous substances and other hazardous compounds shall be kept in a separate locked area away from medications.

qp) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked container in a refrigerator, or in a locked refrigerator.

rq) The label of each individual medication container filled by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name and strength of drug, amount of drug, date of issue, expiration date of all time-dated drugs; name, address, and telephone number of pharmacy issuing the drug; and the initials of the pharmacist filling the prescription. If the individual medication container is filled by a physician from the physician's own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist, and prescription number.

sr) Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Containers having no labels shall be destroyed in accordance with Federal and State laws.

ts) The medications of each resident shall be kept and stored in their

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originally received containers. Medications shall not be transferred between containers.

Attorney General's Opinion File No. S-1033, dated January 9, 1976, concluded that the administration of medication to residents of licensed long-term care facilities is a nursing procedure, as defined in the Illinois Nursing Act and, as such, cannot be performed by persons who are not licensed as either Registered Professional Nurses or Licensed Practical Nurses. The opinion concluded by stating that "nursing aides, orderlies, attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer medications to patients in nursing homes."

(Source: Amended at 25 Ill. Reg. 6499-7, effective MAY 15, 2001)

Section 350.3850 Therapy and Personal Care

- a) Physical and occupational therapy facilities are not required in an ICF/DD of 16 or fewer beds ~~15-Beds-or-Bess~~.
- b) A separate room for hair care and grooming needs is not required in an ICF/DD of 16 or fewer beds ~~15-Beds-or-Bess~~.

(Source: Amended at 25 Ill. Reg. 6499-7, effective MAY 15, 2001)

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NOTICE OF ADOPTED REPEALER

Heading of the Part: Testing of Breath, Blood and Urine for Alcohol and/or Other Drugs

1)	<u>Heading of the Part: Testing of Breath, Blood and Urine for Alcohol and/or Other Drugs</u>
2)	<u>Code Citation:</u> 77 Ill. Adm. Code 510
3)	<u>Section Numbers:</u> 510.20 510.40 510.60 510.70 510.80 510.90
4)	<u>Statutory Authority:</u> Section 11-501.2 of the Illinois Vehicle Code [625 ILCS 5/11-501.2]
5)	<u>Effective date of Repealer:</u> May 7, 2001
6)	<u>Does this rulemaking contain an automatic repeal date?</u> No
7)	<u>Does this rulemaking contain any incorporations by reference?</u> No
8)	A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
9)	<u>Notices of Proposal was Published in Illinois Register:</u> January 5, 2001 - 25 Ill. Reg. 42
10)	<u>Has JCAR issued a Statement of Objection to these repealers?</u> No
11)	Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period: None. The following changes were made in response to comments and suggestions of the JCAR: None. In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.
12)	Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.

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NOTICE OF ADOPTED REPEALER

13) Will this adopted repealer replace an emergency repealer currently in effect? Yes

14) Are there any other repealers pending on this Part?

15) Summary and purpose of the repealer: The Department of Public Health is repealing rules implementing the breath, blood, and urine program authorized by the Illinois Vehicle Code. The program was transferred to the Illinois State Police on January 1, 2001, in accordance with P.A. 91-828.

16) Information and questions regarding this adopted repealer shall be directed to:

Paul Thompson
 Division of Legal Services
 Department of Public Health
 535 West Jefferson, Fifth Floor
 Springfield, Illinois 62761
 217/782-2043
 e-mail: rules@idph.state.il.us

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers: 130.330
Adopted Action:
 Amendment

4) Statutory Authority: 35 ILCS 120

5) Effective Date of Amendments: May 3, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 26, 2000, 24 Ill. Reg. 7617

10) Has JCAR issued a Statement of Objections to this amendment? No

11) Differences between proposal and final version: These regulations were modified as a result of public comment received during the First Notice period. After evaluation of such public comment, the Department decided to eliminate the requirement that a company capitalize chemicals as long-term assets on its financial books, and that it also amortize or depreciate the chemicals on such books per Generally Accepted Accounting Principles. The regulation as adopted states that the exemption includes chemicals acting as catalysts only if they effect a direct and immediate change on a product being manufactured or assembled for sale or lease. Other changes included grammatical and technical changes made as a result of agreements with JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
 NO

13) Will this amendment replace an emergency amendment currently in effect?

14) Are there any amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
130.401	Amendment	12/29/00, 24 Ill. Reg. 19030
130.2105	Amendment	01/12/01, 25 Ill. Reg. 386
130.120	Amendment	01/26/01, 25 Ill. Reg. 1169

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130.2011	Amendment	01/26/01, 25 Ill. Reg. 1169
130.2012	Amendment	01/26/01, 25 Ill. Reg. 1169
130.1501	Amendment	02/09/01, 25 Ill. Reg. 2325
130.2004	New Section	02/16/01, 25 Ill. Reg. 2676

15) Summary and purpose of Amendment: The current rules do not include standards regarding which chemicals can qualify for the manufacturing machinery and equipment exemption. This rulemaking clarifies that chemicals acting as catalysts qualify for the exemption if they effect a direct and immediate change upon a product being manufactured or assembled for sale or lease. Examples of qualifying chemicals have been provided.

16) Information and questions regarding this adopted amendment shall be directed to:

Karl W. Betz
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
217/782-6996

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE
PART 130
RETAILERS' OCCUPATION TAX

15) Subpart A: Nature of Tax
Section
Character and Rate of Tax
Responsibility of Trustees, Receivers, Executors or Administrators
Occasional Sales
Sale of Used Motor Vehicles by Leasing or Rental Business
Habitual Sales
Nontaxable Transactions

16) Subpart B: Sale at Retail
Section
The Test of a Sale at Retail
Sales for Transfer Incident to Service
Sales of Tangible Personal Property to Purchasers for Resale
Further Illustrations of Sales for Use or Consumption Versus Sales
for Resale
Sales to Lessors of Tangible Personal Property
Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	130.201	The Test of a Sale at Retail
	130.205	Sales for Transfer Incident to Service
	130.210	Sales of Tangible Personal Property to Purchasers for Resale
	130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
	130.220	Sales to Lessors of Tangible Personal Property
	130.225	Drop Shipments
Section	130.305	Farm Machinery and Equipment
	130.310	Food, Drugs, Medicines and Medical Appliances
	130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
	130.320	Gasohol
	130.321	Fuel Used by Air Common Carriers in International Flights
	130.325	Graphic Arts Machinery and Equipment Exemption
	130.330	Manufacturing Machinery and Equipment
	130.331	Manufacturer's Purchase Credit
	130.332	Automatic Vending Machines that Dispense Hot Food or Beverages
	130.335	Pollution Control Facilities
	130.340	Rolling Stock
	130.345	Oil Field Exploration, Drilling and Production Equipment
	130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
	130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

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Section 130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--Penalties--Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section 130.501	Monthly Tax Returns--When Due--Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART H: BOOKS AND RECORDS

Section 130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

SUBPART I: PENALTIES AND INTEREST

Section 130.801	General Requirements
130.805	What Records Constitute Minimum Requirements
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings
130.825	Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART J: BINDING OPINIONS

Section 130.1001	When Opinions from the Department are Binding
130.1101	Subpart K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

SUBPART F: INTERSTATE COMMERCE

Section 130.1101	Definition of Federal Area
130.1105	When Deliveries on Federal Areas Are Taxable
130.1110	No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas
130.1115	Subpart L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING
130.1201	General Information
130.1205	Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART G: CERTIFICATE OF REGISTRATION

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130.1415	Resale Number--When Required and How Obtained
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Section 130.1501	Claims for Credit--Limitations--Procedure
130.1505	Disposition of Credit Memoranda by Holders Thereof
130.1510	Refunds
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130.1915	Auctioneers and Agents
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130.1935	Computer Software
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130.1985	Optometrists and Opticians
130.1990	Pawnbrokers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
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130.2006	Enterprises Operated As Businesses, and Suppliers of Such Persons
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Sales and Gifts By Employers to Employees
Sales by Governmental Bodies
Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
Sales of Automobiles for Use In Demonstration (Repealed)
Sales of Containers, Wrapping and Packing Materials and Related Products
Sales To Construction Contractors, Real Estate Developers and Speculative Builders
Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
Sales to or by Banks, Savings and Loan Associations and Credit Unions
Sales to Railroad Companies
Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
Sellers of Feeds and Breeding Livestock
Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
Sellers of Seeds and Fertilizer
Sellers of Machinery, Tools and Special Order Items
Suppliers of Persons Engaged in Service Occupations and Professions
Trading Stamps and Discount Coupons
Undertakers and Funeral Directors
Vending Machines
Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
Vendors of Meals
Vendors of Memorial Stones and Monuments
Vendors of Signs
Vendors of Steam
Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
Veterinarians
Warehousemen

ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 4 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; effective November 23, 1987; amended at 11 Ill. Reg. 19696, effective November 29, 1987; effective October 29, 1987; amended at 11 Ill. Reg. 19138, effective November 29, 1987; amended at 11 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 21, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18336, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 1, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg.

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4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 15, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. § 51.5, effective May 1, 2001.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.330 Manufacturing Machinery and Equipment

a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The exemption applies whether the sale or lease is made directly by the manufacturer or some other person. In certain cases purchases of machinery and equipment by a lessor will be exempt even though that lessor does not himself employ the machinery and equipment in an exempt manner.

b) Manufacturing and Assembling.

- 1) This exemption exempts from tax only machinery and equipment used in manufacturing or assembling tangible personal property for sale or lease. Thus, the use of machinery and equipment in any industrial, commercial or business activity which may be distinguished from manufacturing or assembling will not be an exempt use and such machinery and equipment will be subject to tax.

2) The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant.

3) The process or activity must be commonly regarded as manufacturing. To be so regarded, it must be thought of as manufacturing by the general public. Generally, the scale, scope and character of a process or operation will be considered to determine if such process or operation is commonly regarded as manufacturing. Manufacturing includes such activities as processing, fabricating and refining.

4) Manufacturing does not include extractive industrial activities. Mining, logging, and drilling for oil, gas, and water neither produce articles of tangible personal property nor effect any significant or substantial change in the form, use or name of the materials or resources upon which they operate. The extractive processes of quarrying does not constitute manufacturing. However, the activities subsequent to quarrying such as crushing, washing,

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sizing and blending will constitute manufacturing, and machinery and equipment used primarily therefor will qualify for the exemption, if the process results in the assembling of an article of tangible personal property with a different form, use or name than the material extracted.

- 5) The printing process is not commonly regarded as manufacturing and court decisions have found that printing is not manufacturing. Therefore, machinery and equipment used in any printing application will not qualify for exemption. This includes graphic arts, newspapers, books, etc. as well as other industrial or commercial applications. (However, see Section 130.325 for the Graphic Arts Machinery and Equipment Exemption.)
- 6) Agricultural, horticultural and related, similar or comparable activities, including commercial fishing, beekeeping, production of seedlings or seed corn, and the development of hybrid seeds, plants, or shoots, are not manufacturing or assembling and, accordingly, machinery and equipment used in such activities is subject to tax. (However, see Section 130.305 for the Farm Machinery and Equipment Exemption.)
- 7) The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing.
- 8) Assembling means the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name.
- 9) Effective September 1, 1988 manufacturing includes photoprocessing if the products of photoprocessing are sold. Machinery and equipment which would qualify for exemption includes, but are not limited to, developers, dryers, enlargers, mounting machines, roll film splicers, film developing image makers, disc film opening and spindling devices, film indexers, photographic paper exposure equipment, photographic paper developing machines, densitometers, print inspection devices, photo print/negative out assembly stations, film sleeve insertion machines, negative image producers, film coating equipment, photo transparency mounters, processor rack sanitizers, photo print embossers, photo print mounting presses, graphic slide generators, chemical mixing equipment and paper exposure positioning and holding devices, etc. Cameras and equipment used to take pictures or expose film are not eligible as the photoprocessing begins after the film is exposed. Retail/net price calculation equipment and chemical reclamation equipment are not considered to be manufacturing machinery and equipment.

- c) Machinery and Equipment
 - 1) The law exempts only the purchase and use of "machinery" and

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"equipment" used in manufacturing or assembling. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the manufacturing or assembling of tangible personal property for sale or lease.

2) Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process: including, machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment.

3) Equipment includes any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembling process: including computers used primarily in operating exempt machinery and equipment in a computer-assisted design, computer-assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment, parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds, and any parts which require periodic replacement in the course of normal operation. The exemption does not include hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, lubricants, adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water. (Section 2-45 of the Act)

4) The exemption includes the sale of materials to a purchaser who manufactures such materials into an exempted type of machinery or equipment or tools which such purchaser uses himself in the manufacturing of tangible personal property or leases to a manufacturer of tangible personal property. However, such purchaser must maintain adequate records clearly demonstrating the incorporation of such materials into exempt machinery and equipment.

5) Machinery and equipment does not include foundations for, or special purpose buildings to house or support, machinery and equipment.

6) The exemption includes chemicals acting as catalysts only if they effect a direct and immediate change upon a product being manufactured or assembled for sale or lease. The following examples are illustrative:

A) Example 1. A chemical acid is used to etch copper off the surface of a printed circuit board during the manufacturing process. The acid causes a direct and immediate change upon the product. The acid qualifies for the exemption.

B) Example 2. An aluminum oxide catalyst is used in a catalytic cracking process to refine heavy gas oil into gasoline. In this process, large molecules of gas oil or feed are broken

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up into smaller molecules. After the catalyst is injected into the feed and used in the cracking process, it is drawn off and reused in subsequent manufacturing processes. The catalyst qualifies for the exemption.

d) Primary Use

- 1) The law requires that machinery and equipment be used primarily in manufacturing or assembling. Therefore, machinery which is used primarily in an exempt process and partially in a nonexempt manner would qualify for exemption. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50 percent in an exempt manner in order to claim the deduction.
- 2) The fact that particular machinery or equipment may be considered essential to the conduct of the business of manufacturing or assembling because its use is required by law or practical necessity does not, of itself, mean that machinery or equipment is used primarily in manufacturing or assembling.
- 3) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:
 - A) The use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold;
 - B) The use of machinery or equipment to guide or measure a direct and immediate physical change upon the tangible personal property to be sold, provided such function is an integral and essential part of tuning, verifying, or aligning the component parts of such property;
 - C) The use of machinery or equipment to inspect, test or measure the tangible personal property to be sold where such function is an integral part of the production flow;
 - D) The use of machinery and equipment to convey, handle, or transport the tangible personal property to be sold within production stations on the production line or directly between such production stations or buildings within the same plant;
 - E) The use of machinery or equipment to place the tangible personal property to be sold into the container, package, or wrapping in which such property is normally sold where such machinery or equipment is used as a part of an integrated manufacturing process.
- 4) By way of illustration and not limitation, the following activities will generally not be considered to be manufacturing:
 - A) The use of machinery or equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance, or improvement of real estate;
 - B) The use of machinery or equipment in research and

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development of new products or production techniques, machinery, or equipment;

C) The use of machinery or equipment to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle;

D) The use of machinery or equipment to store, convey, handle or transport finished articles of tangible personal property to be sold or leased after completion of the production cycle;

E) The use of machinery or equipment to transport work in process, or semifinished goods, between plants;

F) The use of machinery or equipment in managerial, sales, or other nonproduction, nonoperational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training;

G) The use of machinery or equipment to prevent or fight fires or to protect employees, such as protective equipment face masks, helmets, gloves, coveralls, and goggles or for safety, accident protection or first aid even though such machinery or equipment may be required by law;

H) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, not required by the manufacturing process;

I) The use of machinery or equipment in the preparation of food and beverages by a retailer for retail sale, i.e., restaurants, vending machines, food service establishments, etc.

5) An item of machinery or equipment which initially is used primarily in manufacturing or assembling and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.

e) Product Use

1) The statute requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for sale or lease. Accordingly, a manufacturer or assembler who uses any significant portion of the output of his machinery or equipment, either for internal consumption or any other nonexempt use, or a lessor who leases otherwise exempt machinery and equipment to such a manufacturer or assembler, will not be eligible to claim the exemption on that machinery and equipment. No apportionment of production capacity between output for sale or lease and output for self-use will be permitted and no partial

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exemption for any item of machinery and equipment will be allowed.

2) The production of articles of tangible personal property for sale, a portion of which is diverted by the manufacturer thereof to use as sales samples or as the subjects of quality control testing which renders the articles unfit for sale, will nevertheless be deemed to be production for sale, provided such diversion represents only a small portion of the production of the articles of tangible personal property or of the sale of those articles.

3) Machinery and equipment used in the performance of a service, such as dry cleaning, is not used in the production of tangible personal property for sale and is thus taxable. However, a manufacturer or assembler who uses machinery and equipment to produce goods for sale or lease by himself or another, or to perform assembly or fabricating work for a customer who retains the manufacturer or assembler only for his services, will not be liable for tax on the machinery and equipment he uses as long as the goods produced either for himself or another are destined for sale or lease, rather than for use and consumption.

f) Sales to Lessors of Manufacturers

1) For this exemption to apply, the purchaser need not himself employ the exempt machinery or equipment in manufacturing. If the purchaser leases that machinery or equipment to a lessee-manufacturer who uses it in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided the purchaser-lessor provides to him a properly completed exemption certificate and the information contained herein would support an exemption if the sale were made directly to the lessee-manufacturer.

2) Should a purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not use it in a manner that would qualify directly for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted.

g) Exemption Certificates

1) The user of such machinery or equipment and tools shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. The Department shall prescribe the form of the certificate. If the user has an active registration or resale number, that number may be given in lieu of the prescribed certificate.

2) If a manufacturer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must prepare and retain in his files, the completed exemption

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certificate. The exemption certificate shall be available to the Department for inspection or audit.

3) A vendor who makes sales of machinery or equipment to a manufacturer or lessor or a manufacturer must collect Use Tax, and will owe Retailers' Occupation Tax, on that sale unless the purchaser certifies the exempt nature of the purchase to the vendor as set out above. The Summary Schedule, RR-586, must be submitted in lieu of taxes at the time the taxes are due.

h) Opinions and Rulings
Informal ruling and opinion letters issued by the Department regarding the coverage and applicability of this exemption to specific devices will be maintained by the Department in Springfield. They will be available for public inspection and may be copied or reproduced at taxpayer's expense. Trade secrets or other confidential information in such letters will be deleted prior to release to public access files.

(Source: Amended at 25 Ill. Reg. 6515, effective

(Source: Amended at 25 Ill. Reg. 6515, effective

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1) Heading of the Part: Service Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 140

3) Section Numbers:
141.140
Adopted Action:
New Section

4) Statutory Authority: 35 ILCS 115

5) Effective Date of Amendment: May 3, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: December 1, 2000, 24 Ill. Reg. 17498

10) Has JCAR issued a Statement of Objections to this Amendment? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This rulemaking adds provisions concerning warranty repairs, including manufacturers' express warranties, safety related recalls, non-safety related recalls, extended warranties, and goodwill repairs.

16) Information and questions regarding this adopted amendment shall be directed to:

Karl W. Betz
Associate Counsel
Illinois Department of Revenue
Legal Services Office

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101 West Jefferson
Springfield, Illinois 62794
217/782-6996

The full text of the adopted amendment begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 140

SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
140.101	Basis and Rate of the Service Occupation Tax
140.105	Registration of Servicemen
140.110	Presumption that Tax Applies (Repealed)
140.115	Occasional Sales to Servicemen by Suppliers (Repealed)
140.120	Meaning of Serviceman
140.125	Examples of Nontaxability
140.126	Exemption of Food, Drugs and Medical Appliances
140.127	Service Provided to Persons Who Lease Tangible Personal Property to Exempt Hospitals
140.128	Persons Who Lease Tangible Personal Property to Governmental Bodies
140.130	Suppliers of Printers (Repealed)
140.135	Sales of Drugs and Related Items, to or by Pharmacists
140.140	Other Examples of Taxable Transactions
140.141	Warranty Repairs
140.145	Multi-Service Situations

SUBPART B: DEFINITIONS

Section	
140.201	General Definitions

SUBPART C: BASE OF THE TAX

Section	
140.301	Cost Price
140.305	Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

Section	
140.401	Monthly Returns When Due -- Contents of Returns
140.405	Annual Tax Returns
140.410	Final Return
140.415	Taxpayer's Duty to Obtain Form
140.420	Annual Information Returns by Servicemen
140.425	Filing of Returns for Serviceman "Suppliers" by their Suppliers Under Certain Circumstances
140.430	Incorporation by Reference

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SUBPART E: INTERSTATE COMMERCE

Section 140.501 Sales of Service Involving Property Originating in Illinois
 Section 140.505 Sales of Service Involving Property Originating Outside of Illinois
 (Repealed)

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

Section 140.601 General Information

SUBPART G: BOOKS AND RECORDS

Section 140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section 140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

Section 140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

Section 140.1001 Payment of Tax to the Supplier
 Section 140.1005 Receipt to be Obtained for Tax Payments
 Section 140.1010 Payment of Tax Directly to the Department
 Section 140.1015 Itemization of the Tax by Suppliers
 Section 140.1020 Use of Bracket Chart

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING -- MEANING
 OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section 140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section 140.1201 When Lessee of Premises May File Return for Leased Department
 Section 140.1205 When Lessor of Premises Should File Return for Leased Department
 Section 140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

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SUBPART M: USE OF EXEMPTION CERTIFICATES

Section 140.1301 When Purpose of Serviceman's Purchase is Known (Repealed)
 Section 140.1305 When Purpose of Serviceman's Purchase is Unknown
 Section 140.1310 Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 140.1401 Claims for Credit -- Limitations -- Procedure
 Section 140.1405 Disposition of Credit Memoranda by Holders Thereof
 Section 140.1410 Refunds
 Section 140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

Section 140.1501 General Information
 Section 140.1501 Procedures

SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section 140.1601 Requirements and Procedures
 Section 140.1601 Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section 140.1701 General Information
 AUTHORITY: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended at 18 Ill. Reg. 1550, effective January 13, 1994; amended at 20 Ill. Reg. 5379, effective March 26, 1996; amended at 20 Ill. Reg. 7008, effective May 7, 1996; amended at 20 Ill. Reg. 16211, effective December

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16, 1996; amended at 24 Ill. Reg. 8125, effective May 26, 2000; emergency amendment at 25 Ill. Reg. 1811, effective January 16, 2001; for a maximum of 150 days; amended at 25 Ill. Reg. 4971, effective March 23, 2001; amended at 25 Ill. Reg. 6531, effective MAY 2001.

SUBPART A: NATURE OF TAX

Section 140.141 Warranty Repairs

a) Transfers of repair parts, repair materials and other tangible personal property by persons who repair tangible personal property belonging to others as an incident of furnishing repair services are generally subject to tax under the Service Occupation Tax Act. (See Section 140.140(1).)

However, where a seller/warrantor (e.g., a retailer or a manufacturer) is required to make a repair to an item under the terms of a warranty included in the retail selling price of that item, the repair parts and materials transferred incident to the repair are not subject to tax. This is because the warranty (and the work to be done under the warranty) was included as part of the retail selling price of the item and, as such, was subject to Retailers' Occupation Tax and Use Tax when the item was sold at retail. The warranty constitutes an agreement, included in the retail selling price of the item, that the item is free from defects in materials and workmanship and, if any such defect exists, it will be cured. The warranty may be express or implied. So long as the seller/warrantor is obligated to make a repair under the terms of a warranty that was included in the retail selling price of the item, the repair is not subject to tax. The following situations are examples.

1) Manufacturer's Express Warranty. When an item of tangible personal property is sold at retail, an express warranty from the manufacturer is often included in the selling price. This express warranty obligates the manufacturer to correct defects in materials and workmanship during a specified timeframe. When repairs are made under the terms of an express warranty, no tax is due and this is true whether the manufacturer makes the repairs or whether the manufacturer pays someone else to make the repairs.

2) Safety Related Recall. Sometimes, a particular product line is recalled by a manufacturer to correct a manufacturing defect that relates to product safety. Such recalls can be made on the manufacturer's own initiative or as the result of a recommendation by a governmental agency such as the National Highway Traffic Safety Administration or the U.S. Consumer Product Safety Commission. In either event, when repairs are made in this situation, no tax is incurred as a result of those repairs even if the repairs are not required by the manufacturer's express warranty. This is so because manufacturers

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make an implied warranty that the items they sell are free from safety-related manufacturing defects. Repairs made under safety related recalls are not taxable and this is true whether the manufacturer makes the repairs or pays someone else to make the repairs.

3) Non-safety Related Recall. Sometimes, a particular product line is recalled by a manufacturer to correct a non-safety related defect in materials and workmanship. So long as the manufacturer is required to correct the defect as the result of an enforceable agreement included in the retail selling price of the item that the item was being purchased free of manufacturing defects and the repairs are necessary to correct a manufacturing defect, no tax liability is incurred as a result of the repair. Again, this is true whether the manufacturer makes the repairs or pays someone else to make the repairs. It is also true even if the repairs are required to be made outside the time limits contained in the manufacturer's express warranty.

c) Repairs made by a seller (e.g., retailer or manufacturer) who is not obligated to make the repair under a warranty included in the retail selling price of the item result in tax liability. The following situations are examples.

1) Maintenance Agreements. Maintenance agreements are contracts to provide repairs for a particular item within a stated time period and for a pre-determined fee. The party agreeing to provide service under a maintenance agreement may or may not be a seller of the item. However, the maintenance agreement is not included in the retail selling price of the item covered by the maintenance agreement and, for that reason, the selling price of the maintenance agreement is not subject to Retailers' Occupation Tax and Use Tax liability when the item is sold at retail. Consequently, repairs made under a maintenance agreement result in tax liability. (See 86 Ill. Adm. Code 140.301(b)(3); 35 ILCS 105/3-75 and 35 ILCS 120/2-55.)

2) Extended Warranties. Extended warranties are contracts to provide repairs for a particular item for a stated period of time after a manufacturer's express warranty has expired. An extended warranty is not included in the selling price of the item covered by the extended warranty and, for that reason, the selling price of the extended warranty is not subject to Retailers' Occupation Tax and Use Tax liability when the item is sold at retail. Consequently, repairs made under an extended warranty result in tax liability. Extended warranties are a form of maintenance agreement and are subject to tax just as maintenance agreements are subject to tax. (See 86 Ill. Adm. Code 140.301(b)(3); 35 ILCS 105/3-75 and 35 ILCS 120/2-55.)

3) Goodwill Repairs. Goodwill repairs are repairs made by a seller for no charge that a seller is not obligated to make.

A) If the seller makes the goodwill repair himself, no service

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situation exists. This is so because the seller makes the repair for no charge and cannot be said to be making a sale of service. Rather, in this situation, the seller is using repair parts to maintain the goodwill of a customer. For that reason, the seller making the goodwill repair himself incurs a Use Tax liability based on his cost price of all tangible personal property used in making the repair, including the repair parts transferred to the customer.

B) If the seller pays another person to make the goodwill repair, a service situation exists in which the person making the repairs is the serviceman and the seller is the service customer. In this situation, the tax liabilities depend on the nature of the serviceman.

- i) If the serviceman is de minimis and is not required to be registered under Section 2a of the Retailers' Occupation Tax Act, the serviceman incurs a Use Tax liability based on his cost price of the parts transferred in making the repair. (See 86 Ill. Adm. Code 140.108.) In this situation, the seller (as the service customer) incurs no tax liability and the serviceman cannot charge "tax" to the seller. (See 86 Ill. Adm. Code 140.108(a)(3).)
- ii) If the serviceman is de minimis and is required to be registered under Section 2a of the Retailers' Occupation Tax Act or is de minimus and is registered under the Service Occupation Tax Act, the serviceman incurs a Service Occupation Tax liability based on his cost price of the parts transferred incident to the repair. (See 86 Ill. Adm. Code 140.109.) In this situation, the seller (as the service customer) incurs a Service Use Tax liability that is to be collected by the serviceman. The serviceman may show this Service Use Tax as a separate item on his billing to the seller (the service customer) but is not required to do so unless the seller (as the service customer) requests that it be so shown. (See 86 Ill. Adm. Code 140.109(a)(4).)
- iii) If the serviceman incurs Service Occupation Tax on his selling price and separately states the selling price of the parts transferred in making the repair, the tax is based on the separately stated selling price of the parts (but not less than the serviceman's cost price of those parts). (See 86 Ill. Adm. Code 140.106(a)(1).) If the serviceman incurs Service Occupation Tax on his selling price and does not separately state the selling price of the parts, then the tax is incurred on 50% of the serviceman's entire service billing (but not less than the serviceman's

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cost price of the parts transferred). (See 86 Ill. Adm. Code 140.106(a)(2).) In these situations, the seller (as the service customer) incurs a Service Use Tax liability that is to be collected by the serviceman. The serviceman may show this Service Use Tax as a separate item on his billing to the seller (the service customer) but is not required to do so unless the seller (as the service customer) requests that it be so shown. (See 86 Ill. Adm. Code 140.106(e).)

(Source: Added at 25 Ill. Reg. **6531**, effective May 1, 2001)

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- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Numbers:

	<u>Adopted Action:</u>
150.331	Amendment
150.332	Amendment
150.705	Amendment
- 4) Statutory Authority: 35 ILCS 105
- 5) Effective Date of Amendments: May 3, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:

150.331 - 01/26/01, 25 Ill. Reg. 1171
150.332 - 01/26/01, 25 Ill. Reg. 1171
150.705 - 02/02/01, 25 Ill. Reg. 1988
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made. This is a consolidated rule with 3 Sections being amended.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Sections 150.331 and 150.332 were amended to provide exemptions in subsections (22) and (23) of Section 3-5 of the Use Tax Act which were enacted effective January 1, 1996. No sunset date was provided in the Public Act that created these exemptions. Pursuant to the provisions of Section 3-90 of the Use Tax Act, if a reasonable and appropriate sunset date is not specified in the Public Act that creates the exemption, credit, or deduction, a taxpayer shall not be

- entitled to take the exemption, credit, or deduction beginning 5 years after the effective date of the Public Act creating the exemption, credit, or deduction and thereafter. The sunset provisions of Section 3-90 are applicable to exemptions enacted after August 4, 1995. As a result, the exemptions provided in subsections (22) and (23) of Section 3-5 of the Use Tax Act will sunset and no longer be available starting January 1, 2001. This adopted rulemaking amends the Sections that describe these exemptions and lists the last date when these exemptions may be taken. It also notifies lessors that the property being leased under a qualifying lease entered into before January 1, 2001 will continue to be considered exempt until the time that the property is no longer subject to that qualifying lease or is used in any other non-qualifying manner. Section 150.705 is amended by implementing Public Act 91-901, which provides that beginning January 1, 2001, with respect to motor vehicles, aircraft, watercraft, and trailers, a purchaser of such tangible personal property for use in this State, who purchases such tangible personal property from an out-of-state retailer, shall file, with the Department, upon a form prescribed and supplied by the Department, a return for each such item of tangible personal property purchased, except that if, in the same transaction a purchaser of motor vehicles, aircraft, watercraft, or trailers who is a retailer of motor vehicles, aircraft, watercraft, or trailers purchases more than one motor vehicle, aircraft, watercraft, or trailer for the purpose of resale or (ii) a purchaser of motor vehicles, aircraft, watercraft, or trailers purchases more than one motor vehicle, aircraft, watercraft, or trailer for use as qualifying rolling stock (see 86 Ill. Adm. Code 130.340) as provided in Section 3-55 of the Act, then the purchaser may report the purchase of all motor vehicles, aircraft, watercraft, or trailers involved in that transaction to the Department on a single return prescribed by the Department.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Terry Charlton
Gina Roccaforte
Associate Counsels - Sales Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
217/782-6996

The full text of the adopted amendment begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 150
USE TAX

SUBPART A: NATURE OF THE TAX

Section 150.101 Description of the Tax Rate and Base of Tax
 150.105 How To Compute Depreciation
 150.110 How to Determine Effective Date
 150.115 Effective Date of New Taxes
 150.120 Relation of Use Tax to Retailers' Occupation Tax
 150.125 Accounting for the Tax
 150.130 How to Avoid Paying Tax on Use Tax Collected From the Purchaser
 150.135

SUBPART B: DEFINITIONS

Section 150.201 General Definitions
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SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS	
Section 150.801	When Out-of-State Retailers Must Register and Collect Use Tax
150.805	Voluntary Registration by Certain Out-of-State Retailers
150.810	Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

Section 150.901	When and Where to File Deduction for Collecting Tax
150.905	Incorporation by Reference
150.910	Itemization of Receipts from Sales and the Tax Among the Different States from Which Sales are Made into Illinois
150.915	

SUBPART I: PENALTIES, INTEREST, STATUTE OF LIMITATIONS AND ADMINISTRATIVE PROCEDURES

Section 150.1001	General Information
	SUBPART J: TRADED-IN PROPERTY

Section 150.1101	General Information
	SUBPART K: INCORPORATION OF ILLINOIS RETAILERS' OCCUPATION TAX REGULATIONS BY REFERENCE

Section 150.1201	General Information
	SUBPART L: BOOKS AND RECORDS

Section 150.1301	Users' Records
150.1305	Retailers' Records
150.1310	Use of Signs to Prove Collection of Tax as a Separate Item
150.1315	Consequence of Not Complying with Requirement of Collecting Use Tax Separately From the Selling Price
150.1320	Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 150.1401	Claims for Credit--Limitations--Procedure
150.1405	Disposition of Credit Memoranda by Holders Thereof

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150.1415	Interest

AUTHORITY: Implementing the Use Tax Act [35 ILCS 105] and authorized by Section 2505-90 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-90].

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623, effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at 15 Ill. Reg. 5861, effective April 5, 1991; emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 5059, effective March 23, 2001; amended at 25 Ill. Reg. 6540, effective 1/1/2001.

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section 150.331 Persons Who Lease Tangible Personal Property to Exempt Hospitals

a) Effective January 1, 1996 through December 31, 2000, computers and communications equipment utilized for any hospital purpose that are purchased by persons who lease those items to exempt hospitals are not subject to Use Tax providing:

- 1) the computers and communications equipment described above must all be purchased for lease to a tax exempt hospital under a lease that has been executed or is in effect at the time of purchase;
- 2) the lease must be for a period of one year or longer; and
- 3) the lease must be to a hospital that has an active tax exemption identification number issued by the Department under Section 19 of the Retailers' Occupation Tax Act (see 86 Ill. Adm. Code 1130/2007).

b) Effective January 1, 1996 through December 31, 2000, equipment, other than that specified in subsection (a), used in the diagnosis, analysis, or treatment of hospital patients that is purchased by persons who lease that equipment to exempt hospitals is not subject to

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Use Tax providing:

- 1) the equipment described above must all be purchased for lease to a tax exempt hospital under a lease that has been executed or is in effect at the time of purchase;
- 2) the lease must be for a period of one year or longer; and
- 3) the lease must be to a hospital that has an active tax exemption identification number issued by the Department under Section 19 of the Retailers' Occupation Tax Act (see 86 Ill. Adm. Code 130.2007).

c) The purchaser must provide the certification described below to the seller.

- 1) When this exemption may be properly claimed on the purchase of computer or other communications equipment, the purchaser must give the seller a certification stating that the computer or other communications equipment is being purchased for lease to a tax exempt hospital under a lease for a period of one year or longer executed or in effect at the time of the purchase.
- 2) When this exemption may be properly claimed on the purchase of equipment used in the diagnosis, analysis, or treatment of hospital patients, the purchaser must give the seller a certification stating that the equipment is being purchased for lease to a tax exempt hospital under a lease for a period of one year or longer executed or in effect at the time of the purchase, and that the equipment is for use in the diagnosis, analysis, or treatment of hospital patients.
- 3) The certification described in subsections (c)(1) and (c)(2) of this Section must also contain all of the following:
 - A) The seller's name and address;
 - B) The purchaser's name and address;
 - C) A description of the tangible personal property being purchased;
 - D) The purchaser's signature and date of signing;
 - E) The name and address of the hospital and its tax exemption identification number issued by the Department; and
 - F) The date the lease was executed and the lease period.

d) For purposes of this Section, "hospital patients" means persons who seek any form of medical care including, but not limited to, medical treatment, testing, diagnosis, or therapy at a hospital or at another location under the control and supervision of a hospital. For example, persons who are sent by doctors for X-rays or other tests at qualifying hospitals, even though those persons are not admitted to those hospitals, are considered hospital patients.

e) If computers or other equipment are purchased by a lessor under the provisions of this Section and the computers or other equipment are used in a manner that does not qualify for the exemption or are used in any other non-exempt manner, the lessor is liable for the appropriate tax imposed under the Use Tax Act. The property being leased under qualifying leases that were entered into between January 1, 1996 and December 31, 2000 pursuant to the provisions of this Section continue to be exempt after January 1, 2001 until such time as the property is no longer being leased under

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between January 1, 1996 and December 31, 2000 pursuant to the provisions of this Section continue to be exempt after January 1, 2001 until such time as the computers or other equipment is no longer being leased under those qualifying leases or is used in any other non-qualifying manner. In the event that the computers or other equipment is no longer leased in an exempt manner or is used in any other non-exempt manner that event, the amount of Use Tax liability incurred by the lessor is based on the fair market value of the computers or other equipment at the time the non-qualifying use occurred.

(Source: Amended at 25 Ill. Reg. 6540, effective May 2001)

Section 150.332 Persons Who Lease Tangible Personal Property to Governmental Bodies

- a) Effective January 1, 1996 through December 31, 2000, sales of tangible personal property to a lessor who leases that property to a governmental body are not subject to Use Tax provided that:
 - 1) the tangible personal property must be purchased for lease to a governmental body under a lease that has been executed or is in effect at the time of purchase;
 - 2) the lease must be for a period of one year or longer; and
 - 3) the lease must be to a governmental body that has an active tax exemption identification number issued by the Department under Section 19 of the Retailers' Occupation Tax Act (see 86 Ill. Adm. Code 130.2007).
- b) When this exemption may be properly claimed, the purchaser must give the seller a certification stating that the property is being purchased for lease to a governmental body, under a lease of one year or longer executed or in effect at the time of the purchase, and containing all of the following:
 - 1) The seller's name and address;
 - 2) The purchaser's name and address;
 - 3) A description of the tangible personal property being purchased;
 - 4) The purchaser's signature and date of signing;
 - 5) The name of the governmental body and its tax exemption identification number issued by the Department; and
 - 6) The date the lease was executed and the lease period.
- c) If the property is purchased by a lessor under the provisions of this Section and the property is used in a manner that does not qualify for the exemption or is used in any other non-exempt manner, the lessor is liable for the appropriate tax imposed under the Use Tax Act. The property being leased under qualifying leases that were entered into between January 1, 1996 and December 31, 2000 pursuant to the provisions of this Section continue to be exempt after January 1, 2001 until such time as the property is no longer being leased under

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those qualifying leases or is used in any other non-qualifying manner. In the event that the property is no longer leased in an exempt manner or is used in any other non-exempt manner-in-that-event, the amount of Use Tax liability incurred by the lessor is based on the fair market value of the property at the time the non-qualifying use occurred.

(Source: Amended at 25 Ill. Reg. 6540, effective May 2, 2001)

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section 150.705 Use Tax on Items that are Titled or Registered in Illinois

- a) Motor vehicles, as used in this Regulation, include passenger cars, trucks, busses, motorcycles and any kind of vehicle which is required to be titled under the Illinois Vehicle Code [625 ILCS/Ch. 1].
- b) Implement of husbandry means: Every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry provided that no farm wagon, wagon trailer or like vehicle having a capacity of more than 400 bushels or a gross weight of more than 36,000 pounds, shall be included hereunder. [625 ILCS 5/1-130]
- c) Special mobile equipment means: Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditches, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carryalls and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached. [625 ILCS 5/1-191]
- d) For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act [625 ILCS 45/3-2], a personal watercraft, or any boat equipped with an inboard motor.
- e) Where the purchaser is paying the Use Tax directly to the Department with respect to a motor vehicle, watercraft or aircraft, or with respect to an implement of husbandry or special mobile equipment as to which an optional certificate of title will be applied for to the Illinois Secretary of State, such payment shall be made separately from any other Use Tax liability or any Retailers' Occupation Tax or

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other liability.

f) On receipt of the tax, the Department will provide the user with a receipt if demanded by the user, but not otherwise, unless the tax payment relates to a motor vehicle (including a house trailer for which a display certificate is required), watercraft or aircraft, in which case the Department will try to see that the user receives a receipt even if no request therefor is made. The same comments apply to an implement of husbandry or special mobile equipment for which an optional title is being sought.

g) However, the user is urged not to fail to request a receipt from the Department when paying the Use Tax with respect to the selling price of a motor vehicle, watercraft or aircraft, or with respect to an implement of husbandry or special mobile equipment for which an optional title is being sought, either to the Department or to a retailer. Such receipt will be needed in securing an Illinois title to the watercraft from the Department of Natural Resources; or to the motor vehicle, implement of husbandry or special mobile equipment for which an optional title is being sought from the Illinois Secretary of State; or a certificate of registration for the aircraft from the Illinois Department of Transportation, Division of Aeronautics.

h) When a purchaser pays the tax directly to the Department on a motor vehicle, watercraft or aircraft, or on an implement of husbandry or special mobile equipment for which the purchaser is seeking an optional title, so that the tax is being paid on a transaction by transaction basis, the purchaser should also send the Department a copy of the Bill of Sale or Dealer's Invoice relating to such property for examination.

i) In addition, beginning January 1, 2001, with respect to motor vehicles, aircraft, watercraft, and trailers (and implements of husbandry or special mobile equipment for which the purchaser intends to apply for an optional title), a purchaser of such tangible personal property for use in this state, who purchases such tangible personal property from an out-of-state retailer, shall file, with the Department, upon a form prescribed and supplied by the Department, a return for each such item of tangible personal property purchased, except that if, in the same transaction:

- 1) a purchaser of motor vehicles, aircraft, watercraft, or trailers who is a retailer of motor vehicles, aircraft, watercraft, or trailers purchases more than one motor vehicle, aircraft, watercraft, or trailer for use as qualifying rolling stock (see 86 Ill. Adm. Code 130.340) as provided in Section 3-55 of the Act, or
- 2) a purchaser of motor vehicles, aircraft, watercraft, or trailers purchases more than one motor vehicle, aircraft, watercraft, or trailer for use as qualifying rolling stock (see 86 Ill. Adm. Code 130.340) as provided in Section 3-55 of the Act, then the purchaser may report the purchase of all motor vehicles, aircraft, watercraft, or trailers involved in that transaction to the Department on a single return prescribed by the Department. [35 ILCS 105/10] For purposes of the exception in subsection (i)(2) above,

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Purchasers may only report multiple purchases of items of like kind and character on a single return. For example, purchasers may report the purchase of 15 motor vehicles on a single return. However, purchasers may not report the purchase of 10 trailers and 5 motor vehicles on a single return. Such a purchase requires one return for the trailers and a second return for the motor vehicles.

(i) For information concerning the procedure to be followed in accounting for the tax when the purchaser buys a motor vehicle, watercraft or aircraft (or an implement of husbandry or special mobile equipment for which the purchaser is going to apply for an optional title) at retail in Illinois and pays the tax to the retailer rather than directly to the Department, see Section 130.540 of the Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130).

(Source: Amended at 25 Ill. Reg. 6540, effective May 1, 2001)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Service Appeal Process

Code Citation: 89 Ill. Adm. Code 337

Section Numbers: 337.30 337.50 337.70

337.80 337.100

Date Originally Published in the Illinois Register: 3/23/01
25 Ill. Reg 4283

At its meeting on April 17, 2001, the Joint Committee on Administrative Rules objected to DCFS' emergency rulemaking titled Service Appeal Process (89 Ill. Adm. Code 337; 25 Ill. Reg 4283) because the Department is depriving foster parents/relative caregivers of due process by rescinding their statutory right to appeal the change in a child's substitute care setting.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY
STATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Services Delivered by the Department of Children and Family Services

Code Citation: 89 Ill Adm Code 302

Section Numbers: 302.310 302.405

Date Originally Published in the Illinois Register: 3/23/01
25 Ill Reg 4292

At its meeting on April 17, 2001, the Joint Committee on Administrative Rules objected to the emergency rules of the Department of Children and Family Services titled Services Delivered by the Department of Children and Family Services (89 Ill Adm Code 302; 25 Ill Reg 4292) because the only emergency in this instance appears to be a Department-created emergency. DCFS reports it was awarded these funds in August 2000; thus it had sufficient time to enact these guidelines through the regular rulemaking process and still have them in effect by March 15, 2001.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF NATURAL RESOURCES

Heading of the Part: White-Tailed Deer Hunting by Use of Firearms

Code Citation: 17 Ill Adm Code 650

<u>Section Numbers:</u>	650.20	650.21	650.22
650.23	650.30	650.40	
650.60	650.65	650.67	

Date Originally Published in the Illinois Register: 1/26/01
25 Ill Reg 1060

At its meeting on April 17, 2001, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that DNR not adopt this rulemaking until pending legislation granting specific statutory authority for members of limited liability companies to receive free landowner permits is enacted.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF NATURAL RESOURCES

Heading of the Part: White-Tailed Deer Hunting by Use of Bow and ArrowCode Citation: 17 Ill Admin Code 670Section Numbers: 670.21 670.55 670.60Date Originally Published in the Illinois Register: 1/26/01
25 Ill Reg 1047

At its meeting on April 17, 2001, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that DNR not adopt this rulemaking until pending legislation granting specific statutory authority for members of limited liability companies to receive free landowner permits is enacted.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC AID

Heading of the Part: Medical PaymentCode Citation: 89 Ill Admin Code 140Section Numbers: 140.445 140.446 140.447Date Originally Published in the Illinois Register: 12/29/00
24 Ill Reg 18999

At its meeting on April 17, 2001, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that DPA codify into rule its pharmacy dispensing fee. The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
 NOTICE OF FAILURE TO REMEDY
 DEPARTMENT OF PROFESSIONAL REGULATION
 1) Heading of the Part: Nursing and Advanced Practice Nursing Act-Advanced Practice Nurse

2) Code Citation: 68 Ill. Adm. Code 1305

3) Section Numbers

1305.10	Action: Objection
1305.15	Objection
1305.20	Objection
1305.25	Objection
1305.30	Objection
1305.35	Objection
1305.40	Objection
1305.45	Objection
1305.50	Objection
1305.60	Objection
1305.70	Objection
1305.75	Objection
1305.80	Objection
1305.85	Objection
1305.90	Objection
1305.95	Objection
EXHIBIT A	
EXHIBIT B	

4) Notice of Proposal published in Illinois Register: 24 Ill. Reg. 14159 -
 9/22/00

5) Date JCAR issued Statement of Objection: 2/21/01

6) Summary of Action taken by the Agency: Modification

7) JCAR Action: Notice of Failure to Remedy the Objection JCAR objected because substantial changes were made to the rule after 1st Notice publication and the public had no opportunity under the IAPA to submit comments on those changes. DPR's response included modifications identical to the rule objected to by JCAR. This modification by DPR has not satisfied the Objection because DPR still adopted substantive rule text that was never fully disclosed for the purpose of public comment. Furthermore, DPR did not limit its response to the issue raised in JCAR's objection. The adopted rulemaking added language that addressed continuing medical education and advanced cardiac life support certification and incorporated by reference "Standards for Office Based Anesthesia Practice" from the American Association of Nurse Anesthetists.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
 ILLINOIS GENERAL ASSEMBLY
 STATEMENT OF OBJECTION
 TO PROPOSED RULEMAKING
 ILLINOIS RACING BOARD

Heading of the Part: Pari-Mutuels

Code Citation: 11 Ill. Adm. Code 300

Section Numbers: 300.50

Date Originally Published in the Illinois Register: 1/19/01
 25 Ill. Reg 789

At its meeting on April 17, 2001, the Joint Committee on Administrative Rules objected to the above cited rulemaking because the Board made a substantive change in this rulemaking during the First Notice period that was not in response to public comment and that could not be adequately disclosed to the public.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

Heading of the Part: Retailers' Occupation TaxCode Citation: 86 Ill Adm Code 130Section Numbers: 130.330Date Originally Published in the Illinois Register: 5/26/00
24 Ill Reg 7617

At its meeting on April 17, 2001, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that DOR initiate legislation to statutorily clarify that the Machinery and Equipment exemption from ROT encompasses chemicals that act as catalysts in the manufacturing process by effecting a direct and immediate change on the product being manufactured or assembled.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

DEPARTMENT OF STATE POLICE

Heading of the Part: Emission Inspection Training and CertificationCode Citation: 20 Ill Adm Code 1293Section Numbers: 1293.10 1293.20 1293.30Date Originally Published in the Illinois Register: 3/16/01
25 Ill Reg 4045

At its meeting on April 17, 2001, the Joint Committee on Administrative Rules objected to the emergency rules of the Department of State Police titled Emission Inspection Training and Certification (20 Ill Adm Code 1293; Ill Reg 4045) because the only emergency in this instance appears to be a Department-created emergency. The Public Act requiring DSP to adopt rules for the training and certification of inspectors took effect 7/1/00, yet DSP waited until the following February and used emergency rulemaking.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF EMERGENCY SUSPENSION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1998), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Aggressive Mortgage, Inc., Hillside, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective May 4, 2001.

Pursuant to section 11a of the Prevailing Wage Act, 820 ILCS 130/0.01-12 (2000), the Director of the Department of Labor gives notice that Cooling Landscape Contractors, L.L.C. [hereinafter, "Cooling"], 4400 Wheeler Road, Cherry Valley, Illinois 61105, has been found to have disregarded its obligations to employees under the Prevailing Wage Act on two (2) separate occasions and that Cooling, or any firm, corporation, partnership or association in which Cooling has an interest, is prohibited from being awarded any contract or subcontract for a public works project until May 18, 2003.

Copies of the Prevailing Wage Act are available on the internet at <<http://www.legis.state.il.us/ilcs/ch820act130.htm>>, and at the:

Illinois Department of Labor
Conciliation and Mediation Division
One West Old State Capital Plaza, Room 300
Springfield, Illinois 62701-1217

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 1, 2001 through May 7, 2001 and have been scheduled for review by the Committee at its June 12, 2001 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
6/14/01	<u>Department of Public Aid, Medical Payment</u> (89 Ill Adm Code 140)	3/2/01 25 Ill Reg 3190	6/12/01
6/14/01	<u>State Board of Education, School Technology Program</u> (23 Ill Adm Code 575)	2/16/01 25 Ill Reg 2485	6/12/01
6/15/01	<u>Department of Human Services, Refugee/Entrant/Repatriate Program</u> (89 Ill Adm Code 115)	2/23/01 25 Ill Reg 2960	6/12/01
6/16/01	<u>Department of State Police, Emission Inspection Training and Certification</u> (20 Ill Adm Code 1293)	3/16/01 25 Ill Reg 3827	6/12/01
6/16/01	<u>Department of Central Management Services, Local Government Health Plan</u> (80 Ill Adm Code 2160)	2/23/01 25 Ill Reg 2941	6/12/01
6/16/01	<u>Department of Natural Resources, Fox Chain O'Lakes Aquatic Plant Management</u> (17 Ill Adm Code 895)	3/16/01 25 Ill Reg 3792	6/12/01
6/16/01	<u>Michigan Aquatic Plant Management</u> (17 Ill Adm Code 897)	3/16/01 25 Ill Reg 3799	6/12/01
6/17/01	<u>Department of Human Services, Child Care</u> (89 Ill Adm Code 50)	2/16/01 25 Ill Reg 2549	6/12/01

SECOND NOTICES RECEIVED			
6/17/01	<u>Department of Revenue, Salem Civic Center Retailers' Occupation Tax</u> (86 Ill Adm Code 690)	3/9/01 25 Ill Reg 3640	6/12/01
6/20/01	<u>State Universities Retirement System, Universities Retirement</u> (80 Ill Adm Code 1600)	1/19/01 25 Ill Reg 798	6/12/01

